

## **CHAPTER 16: UTILITIES**

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***Statutory reference:***

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*Public utilities, see G.S. Ch. 62*

*Water resources, see G.S. § 143-211 et seq.*

*DIVISION 1 GENERALLY*

[Reserved]

*DIVISION 2 WATER SYSTEM*

**§ 16-36 SUPERVISION; APPOINTMENT OF SUPERINTENDENT.**

(A) The water system of the city shall be under the direct supervision and control of the City Council, which may from time to time make such rules and regulations not inconsistent with this article as it deems necessary.

(B) The City Manager shall appoint a Superintendent who, subject to the supervision and control of the City Council, shall operate the Water Department. The Superintendent shall perform such duties as may be prescribed by ordinance or by direction of the City Council.  
(‘89 Code, § 16-36)

**§ 16-37 SUPERINTENDENT'S AUTHORITY TO ENTER FOR PLUMBING INSPECTION.**

The Superintendent of the Water Department or his authorized assistant may enter the premises of any water customer between the hours of 8:00 a.m. and 6:00 p.m. to examine the pipes and fixtures, the quantity of water used and the manner of its use.  
(‘89 Code, § 16-37)

**§ 16-38 AUTHORITY TO TEMPORARILY DISCONTINUE SERVICE.**

The city reserves the right at any time to shut off water in any main in case of accident or damage or for the purpose of making connections, alterations or repairs.  
(‘89 Code, § 16-38)

**§ 16-39 APPLICATION FOR SERVICE.**

All applications for the use of water must be made at the office of the Water Department on the prescribed form and signed by the owner of the property or his authorized agent. The application when approved shall be a contract to take the supply and shall bind the applicant, so long as the water is taken, to pay to the city the established rates and to comply with all reasonable rules and regulations prescribed by the city.  
(‘89 Code, § 16-39)

**§ 16-40 CONNECTIONS; SEPARATE WATER METERS; PERMIT FOR PRIVATE FIRE PROTECTION; RESTRICTIONS ON CROSS-CONNECTIONS.**

(A) The city will furnish all material and make all connections to the water mains and install all water service pipes from the mains to the inside of the property line. Each separate business, residence, mobile home or other structure shall have a separate water meter.

(B) All plans for private fire protection shall be submitted to and a permit obtained from the Water Department before installation or extensions to existing installations are made. No person will be allowed to make a cross-connection between the Water Department's supply and a private well, spring or other source. There shall be no cross-connection between the city waterlines and air lines used for washing automobiles or for any other purpose. Where water passes through recirculating systems such as cooling towers, etc., there shall be no physical connection between the waterworks system and the pressure lines from the recirculating system.

('89 Code, § 16-40) Penalty, see § 16-72

**§ 16-41 METERS REQUIRED.**

No person within or without the city limits shall connect with the city water system or with waterlines belonging to any person connected with the city systems unless and until a meter approved by the city for measuring the amount or quantity of water used is installed in conjunction with such connection.

('89 Code, § 16-41) Penalty, see § 16-72

**§ 16-42 INSTALLATION OF CORPORATION COCK; MAINTENANCE OF CONNECTIONS AND FIXTURES.**

There shall be installed on each water service line at a convenient place a corporation cock for the control of the water service by the property owner or his agent or tenant. The pipe and connections in the street shall be maintained by the Water Department without expense to the consumer or owner of the property. All fixtures within the premises must be kept in repair by the property owner or consumer.

('89 Code, § 16-42) Penalty, see § 16-72

**§ 16-43 OWNER'S RESPONSIBILITY FOR CONNECTION; LICENSED PLUMBER REQUIRED; INSPECTION.**

The property owner shall be responsible for installing waterlines from the property line to connect with the city system. All waterlines, fixtures and plumbing shall be installed by a plumber licensed to



engage in plumbing work in the city by the state, and all material used in such installation shall be approved by the city. Water shall not be turned on at any premises until the installation on private property has been inspected and approved by the city.

('89 Code, § 16-43) Penalty, see § 16-72

#### **§ 16-44 UNAUTHORIZED USE OF WATER PROHIBITED.**

It shall be unlawful for any person to fill any lake, pool, pond or other reservoir or use a stream of water larger than two inches for washing or flushing purposes without permission from the Superintendent of the Water Department. It shall be unlawful to supply or sell water, either before or after using it, to other persons or families, nor shall any person take away or carry water from any hydrant, public fountain or other outlet without the consent of the Superintendent of the Water Department. The fire hydrants are for the use of the Fire Department and are not to be used by any other person for any purpose without permission from the Superintendent of the Water Department.

('89 Code, § 16-44) Penalty, see § 16-72

#### **§ 16-45 DAMAGING, OBSTRUCTING WATER SYSTEM PROHIBITED.**

It shall be unlawful for any person other than an authorized employee of the city to tamper with, manipulate, damage, remove, obstruct or otherwise harm the water mains, service lines or other apparatus or appurtenances which are a part of the water system of the city.

('89 Code, § 16-45) Penalty, see § 16-72

### ***DIVISION 2A CROSS CONNECTION CONTROL***

#### **§ 16-46 PURPOSE OF CROSS CONNECTION CONTROL.**

The purpose of this cross connection section is:

(1) To protect the public potable water supply of the City of Eden from the possibility of contamination or pollution, which could backflow into the public water system, due to backsiphonage or backpressure, by containing such pollution or contamination at the water service within customer's private water system.

(2) To define the authority of the City of Eden as the water purveyor entitled to eliminating all cross connections, new or existing, within its public water system.

(3) To provide for a continuing program of inspections and testing of existing cross connections, and those which may be installed in the future.

(Ord. passed 6-19-18)

**§ 16-47 AUTHORITY FOR IMPLEMENTING A CROSS CONNECTION CONTROL PROGRAM.**

Cross-Connections between potable water systems and non-potable sources are a significant threat to water quality and to the health of the public water supply. This ordinance is designed to maintain the safety and potability of the water in the City of Eden public water system by establishing rules and procedures to prevent the pollution and contamination of public drinking water by backflow from any non-potable source.

The authority for the following backflow and cross connection rules are found in the

- 1) Federal Safe Drinking Water Act of 1974, 1986 & 1996 (42 US Federal Code, Chapter 6A, Subchapter XII) and the EPA Cross Connection Control Manual.
- 2) NCAC title 15A, environment and natural resources, subchapter 18, C, .0404 (g); .0406 (b) including Appendix B, figure 2: NORTH CAROLINA GUIDELINES CROSS CONNECTION CONTROL IN WATER DISTRIBUTION SYSTEMS.
- 3) This Article

(Ord. passed 6-19-18)

**§ 16-48 DEFINITIONS.**

- A. Backflow: Any reverse flow of water, gas or any other substance back into the public water system of the City of Eden from any source other than the approved water supply.
  - 1) Back pressure backflow: Any elevation of pressure in the downstream piping system caused by pumps, elevation of piping, heat or steam and/or air pressure above the supply pressure at the point of consideration, which would cause a reversal of the normal direction of flow of water.
  - 2) Backsiphonage backflow: A reversal of the normal direction of flow of water in the pipes due to a negative pressure (vacuum) being created in the supply line with the backflow source subject to atmospheric pressure. This can occur because of water main breaks or during fire suppression events.
- B. Backflow Administrator: An employee of the City of Eden, trained and certified by the State of North Carolina as a Cross Connection Control Operator in Responsible Charge, designated to administer and enforce this article, also known as the Cross Connection Control Technician.
- C. Backflow Prevention Assembly (Approved): An assembly that has been investigated and approved by the City of Eden Backflow Administrator and has been approved to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE), the American Water Works Association (AWWA), and has been tested and approved for specific applications by the University of Southern California Foundation for Cross Connection Control and Hydraulic Research (USC FCCCHR). FM (Factory Mutual) and Underwriters Laboratory (UL) approvals shall be required for backflow prevention assemblies installed on fire suppression lines.

- 1) Air gap (fixed) - A permanently fixed, unobstructed vertical distance through the atmosphere between the lowest opening from any pipe or faucet supplying water from any source to a tank, plumbing fixture, or other device and the flood level rim of the device. An approved air gap separation shall be at least double the diameter of the supply pipe. In no case shall the air gap separation be less than two inches. An approved air gap may be considered as a backflow prevention assembly.
- 2) Double check valve assembly - An assembly composed of two single, independently acting, approved check valves, plumbed in series. The assembly must include four resilient-seated test cocks that are properly located for testing the assembly and two tightly closing shut-off valves located at each end of the assembly.
- 3) Double check detector assembly - An assembly composed of an approved double check valve assembly with a bypass water meter and a meter-sized approved double check valve device. The meter shall register accurately for very low flow rates and shall register all flow rates. The check valves shall allow for water to flow through the water meter prior to flowing through the larger assembly. This shall be for the purpose of detecting leaks or usage on fire suppression water systems.
- 4) Dual check valve device - A backflow prevention device comprised of two single, independently acting, approved check valves, plumbed in series. The device is not testable and is generally installed downstream from a water meter and is used for the containment of single family water services as part of a residential backflow prevention program.
- 5) Pressure vacuum breaker Assembly - A device containing one or two independently operated spring loaded check valves and an independently operated spring loaded air inlet valve located on the discharge side of the check valve. The device includes tightly closing shut-off valves on each side of the assembly and two properly located test cocks for the testing of the assembly
- 6) Reduced pressure zone assembly - An approved, properly functioning assembly containing two, independently acting, approved check valves plumbed in series, with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves that discharges to atmosphere. The assembly must include four resilient-seated test cocks that are properly located for testing the assembly and two tightly closing shut-off valves located at each end of the assembly.
- 7) Reduced pressure detector assembly - An assembly composed of an approved reduced pressure zone backflow prevention assembly with a bypass water meter and meter-sized approved reduced pressure zone device. The meter shall register accurately for very low flow. The water flowing through the meter shall be protected to same level as the water through the main assembly. The check valves shall allow for water to flow through the water meter prior to flowing through the larger assembly. This shall be for the purpose of detecting leaks or usage on fire suppression water systems.

- D. Certified Backflow Prevention Assembly Tester: Any individual person who holds a certificate of completion from a certified training program in the testing and repair of backflow prevention assemblies and cross connection control. The certification school must be approved by the Cross Connection ORC for the City of Eden and based on the quality of training provided as compared to NC AWWA and NCRWA standards.
- E. Construction Meter: A water meter assembly that includes a Reduced Pressure Zone backflow preventer for the protection of the potable water system, usually  $\frac{3}{4}$  by  $\frac{5}{8}$  inch designated for the purpose of providing temporary waster service for a construction site. It may be set up to take advantage of an existing water connection or be connected to a fire hydrant and shall have a  $\frac{3}{4}$  inch hose bib connection.
- F. Containment: The prevention of backflow from a non-potable system utilizing an approved, properly functioning backflow prevention assembly which is installed, operated, and maintained in accordance with the provisions of this article.
- G. Contamination: An impairment of the quality of the water to a degree that it creates an actual hazard to the public health through poisoning or through the spread of disease.
- H. Cross Connection: Any actual or potential connection or piping arrangement between a potable water supply and any other non-potable source or system whereby water or other liquids, mixtures, or substances may flow into or enter the potable water supply system.
- I. Hazard (Health/Severe): A potential threat of contamination to the public water system or to a water service customer's potable water system that could cause serious illness or death.
- J. Hazard (Imminent): An immediate threat of contamination to the public water system that could cause serious illness or death.
- K. Hazard (Non-health/Moderate): An actual or potential threat of damage to the physical components comprising the public water system or to a water service customer's potable water system, or of pollution to the public water system or to a water service customer's potable water system.
- L. Homeowner: An individual who resides on the property that he/she owns by proper title and/or deed. The owner-occupant of a home.
- M. Hydrant Meter: A water meter designed to be connected to a fire hydrant for the purpose of obtaining water on a temporary basis where no regular water connection is available that will perform the purpose needed. This device should include a Reduced Pressure Zone (RPZ) backflow preventer to protect the potable water system from contamination. This assembly shall be fitted 2  $\frac{1}{2}$  inch fire hose connection.
- N. Isolation: The prevention of backflow in which a backflow preventer, such as a hose bib or an atmospheric vacuum breaker, is located to correct a cross-connection at a specific location on a private potable water system rather than at a water service connection. This protects the drinking water in the building and is covered by NC Plumbing Code.
- O. Owner: Any person who has legal title to, or license to operate or habitat in, a property upon which a cross-connection inspection is to be made or upon which a cross-connection is present.

- P. Pollution: An impairment of the quality of the potable water to a degree that does not create a hazard to public health but that does adversely and unreasonably affect the aesthetic qualities of such potable water for domestic use.
- Q. Potable Water: Water from any source which has been approved for human consumption by the State of North Carolina, Department of Environmental Quality, Water Resources Division, Public Water Supply Section.
- R. Person: Any individual, partnership, company, public or private corporation, political subdivision or government agency or any other legal entity.
- S. Private Water System: Any water system located on the water service customer's premise, whether supplied by public potable water or an auxiliary water supply. The system or systems may be either a potable water system or an industrial piping system.
- T. Public Water System: The potable water system owned and operated by the City of Eden. This includes all storage tanks, distribution mains, lines, pipes, connections, fixtures and other facilities, conveying potable water from the water treatment plants to the service connections of each water service customer.
- U. Service Connection: The terminal end of a service connection from the public potable water system, immediately after the water meter, i.e., where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the water service customer's private water system.
- V. Used Water: Any water supplied by a water purveyor from a public potable water system to a water service customer's private water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.
- W. Water Service Customer: Any person, firm, or corporation receiving water from the City of Eden by way of a water service connected to the City of Eden's public water system.
- X. Water Purveyor: Owner or operator of a public potable water system providing approved potable water supply to the public.
- Y. Water Supply (Auxiliary): Any water supply on or available to the water customer's premises other than the water purveyor's public potable water system. The auxiliary water may include water from another purveyor's public potable water system or any natural source such as a well, spring, river, stream, etc., and used or objectionable.
- Z. Water Supply (Unapproved): Any water supply, which has not been approved for human consumption by the State of North Carolina, Department of Environmental Quality, Water Resources Division, Public Water Supply Section.  
(Ord. passed 6-19-18)

## § 16-49 RESPONSIBILITY.

A. Responsibility: City of Eden

(1) The City of Eden Collection and Distribution Superintendent will be primarily responsible

for preventing any contamination or pollution of the public water system. This responsibility begins at the point of origin of the public water system supply and includes all of the public water distribution system, and ends at the service connection, under the Safe Drinking Water Act. The Backflow Administrator shall exercise vigilance to ensure that the water customer has taken the proper steps to protect the public potable water system.

(2) When it has been determined by an inspection of the water service customer's private water system that a backflow protection system is required for the protection of the public water system, the Backflow Administrator shall notify the owner, in writing, of any such building or premises, to correct within a time set by this article, any plumbing installed or existing that is in violation of this article.

(3) The Backflow Administrator will select an approved backflow prevention assembly to be installed at the service connection. The owner shall be notified that the installation of a backflow prevention assembly may create a closed system, and as a result thermal expansion may occur. In these circumstances the owner must understand and assume all liability and responsibilities for that phenomenon.

#### B. Responsibility: Water Service Customer

(1) The water service customer has the responsibility of preventing contaminants and pollutants from entering the water service customer's private water system or the public water system operated by the City of Eden. The water service customer, at his own expense, shall install, operate, test, repair and maintain all backflow prevention assemblies specified within this article. *The City of Eden may choose to do the testing, maintenance and repair of the customer's backflow prevention assemblies and pass the costs to the affected water customers through the water billing system.*

(2) If a water service customer is a tenant and does not maintain the private water system, and has no authority to bring the system into compliance with the provisions of this article, the City of Eden may assert any available action against the tenant water service customer to assure the private water system is brought into compliance with this article.

(Ord. passed 6-19-18)

### § 16-50 RIGHT OF ENTRY; AUTHORIZATION.

(1) Any authorized representative from the City of Eden shall have the right to enter any building, structure or premises during normal business hours to perform any duty imposed upon him/her by this article and in accordance with the North Carolina Administrative Code. Those duties may include sampling and testing of water, or inspection and observation of all piping systems connected to the public water supply. Refusal to allow these representatives to enter for these purposes shall result in disconnection of water service.

(2) On request, the water service customer shall furnish to the water purveyor any pertinent information regarding the water supply system on such property where cross connection and backflow are deemed possible.

(Ord. passed 6-19-18)

**§ 16-51 LAW; UNPROTECTED CROSS CONNECTION PROHIBITED.**

(1) No water service connection to any private water system shall be installed or maintained by the City of Eden unless the water supply is protected as required by this article and in accordance with the North Carolina Administrative Code. Service of water to any premises shall be discontinued by the City of Eden if a backflow prevention assembly required by this article, is not installed, tested and maintained, or if a backflow prevention assembly has been removed, bypassed or if an unprotected cross connection exists on the premises. Service will be restored after all such conditions or defects are corrected.

(2) No water service customer shall allow an unprotected cross connection to be made or to remain that involves the water service customer's private water system.

(3) No connection shall be made to an unapproved auxiliary water supply unless the public water supply is protected against backflow by an approved backflow prevention assembly, appropriate to the degree of hazard.

(4) No interconnection to any other water purveyor's water system shall be made unless it is protected against backflow by an approved backflow prevention assembly.

(5) No water service customer shall fail to maintain in good operating condition any backflow prevention assembly, which is part of the water service customer's private water system and is required by this article.

(6) No water service customer shall fail to submit to the City of Eden any records, which are required by this article.

(Ord. passed 6-19-18)

**§ 16-52 INSTALLATION.**

(a) Installation and testing requirements:

(1) The purpose of this section is to require that, when a cross connection to the City of Eden public water system has been identified, all water flowing from the public water system into that private water system, must flow through an approved backflow prevention assembly. Furthermore, each backflow prevention assembly must be properly located, installed, tested, and maintained per the City of Eden requirements so that the backflow prevention assembly is effective in protecting the public water system from any possible contamination or pollution.

(2) The installation or replacement of a backflow prevention assembly for domestic water, irrigation, commercial and industrial use shall only be performed by a licensed plumber, utility contractor or homeowner. The installation or replacement of a backflow prevention assembly on a dedicated fire sprinkler service shall only be performed by a licensed fire sprinkler contractor. **ALL** backflow prevention assemblies shall be tested and repaired by a certified backflow prevention assembly tester authorized by the City of Eden.

(3) For premises existing prior to the start of this program, the Department will perform evaluations and inspections of plans and/or premises and inform the owner by letter of any corrective action deemed necessary.

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(4) All new and change of use construction plans and specifications which will receive service from the City of Eden public water system shall be made available to the Backflow Administrator for review, approval, and to determine the degree of hazard, and any required backflow prevention assembly to be installed.

(5) All facilities zoned commercial or industrial that have existing water services with the City of Eden and requesting Certificate of Occupancy from the City or County Planning and Zoning offices, whether for new construction or change of use, shall be inspected for compliance of backflow prevention and cross connection control. Any facility not having backflow protection or changing the degree of hazard shall be brought into compliance before the Backflow Administrator may release the Certificate of Occupancy.

(6) The Backflow Administrator will determine if a water service customer must install a backflow prevention assembly, and provide the water service customer with a letter of notification and list of approved backflow prevention assemblies. Any unapproved backflow prevention assembly must be replaced, with an approved backflow prevention assembly, within a time period set by the Backflow Administrator. The following time periods shall be set forth for the installation of the specified backflow prevention assemblies:

*New construction:* No water meter will be installed by the City until the proper backflow prevention assembly is installed, tested, and approved.

*Change of use/change of ownership:* No water service will be activated by the City until the proper backflow prevention assembly is installed, tested, and approved.

Existing facility evaluation compliance schedule:

Health hazard	60 days
Non-health hazard	90 days

Testing and repair compliance schedule:

Failure to test backflow prevention assembly by anniversary date	30 days
Failure to repair or replace failed a backflow prevention assembly	14 days

If an **IMMINENT HAZARD** or an **UNREASONABLE THREAT OF CONTAMINATION OR POLLUTION** to the City's public water system is detected, the Backflow Administrator may require the installation of the required backflow prevention assembly **IMMEDIATELY**, or within a shorter time period than specified above. If installation is not completed within the specified time period, or if contamination is presently occurring, **WATER SERVICE MAY BE IMMEDIATELY DISCONNECTED** in order to protect the potable water system and public health.



(7) All backflow prevention assemblies must be installed and maintained on the water service customer's premises as part of the water service customer's private water system at or near the service connection and before the service line is connected to any other pipes except as authorized by the Backflow Administrator.

(8) If it has been determined that a backflow prevention assembly cannot be installed at the meter service, due to Zoning or DOT Right-of-Way, an approved backflow prevention assembly must be installed before any branch of plumbing that is installed between the service meter and the service backflow prevention assembly.

(9) Any branch of plumbing installed on the private water system that may be subject to a greater hazard than the supply line, (example: Irrigation systems or pump systems, etc.) shall be protected with the appropriate backflow prevention device, as determined by the Backflow Administrator.

(10) Approved backflow prevention assemblies: Meets American Society of Sanitary Engineers (ASSE) standard and carries ASSE seal or is on the University of Southern California Foundation for Cross Connection Control and Hydraulic Research (USC FCCHR) approval list. Also see the current revision of the City of Eden Backflow Assemblies Specification sheets.

(11) Any water service customer installing any backflow prevention assembly must provide the following information to the Backflow Administrator:

- a. Owner's name and address;
- b. Service address where assembly is installed;
- c. Description of assembly's location;
- d. Date of installation;
- e. Size of assembly
- f. Type of assembly;
- g. Manufacturer;
- h. Model number;
- i. Serial number;
- j. Test results/reports.

(12) Reserved

(13) Each backflow prevention assembly that is required must function properly at time of installation. Each water service customer will be required to maintain, and repair each assembly required as part of their private water system. Testing shall be done immediately following installation of any backflow prevention assembly prior to receiving a CO (certificate of occupancy) and annually thereafter. The owner at their own expense shall have a certified backflow prevention assembly tester conduct the tests and forward the results to the City within ten business days.

(14) If an assembly needs to be repaired it must be re-tested immediately following any repairs. The owner at their own expense shall have a certified backflow prevention assembly tester conduct tests and forward the results to the City. A complete duplicate copy of any testing and/or repair shall be sent to the Backflow Administrator within ten business days of completion of test or repair. Each water service customer must maintain a complete copy of test or repair for no less than five years. All test and repair records must be maintained on forms approved by the Backflow Administrator of the City of Eden.

(15) All rubber components must be replaced every five years in every backflow prevention assembly or as often as needed, according to manufacturer's directions and components condition.

(16) Any existing backflow prevention assembly that was installed prior to the adoption of this article, which does offer the proper level of protection type for the hazard will need to be replaced. At that point the assembly shall be replaced, by the water customer, with the proper type of assembly for the current hazard classification.

(b) Installation location requirements:

(1) Backflow prevention assemblies must be located in a place where it is readily accessible for regular testing, maintenance, repair, and inspection. Any water service customer's water service that is critical and cannot be shut down for annual testing or maintenance shall install parallel backflow prevention assemblies in order to maintain the continuity of water flow for testing and repair; or in the case of the assembly failing. Bypass lines parallel to a backflow prevention assembly shall have an approved backflow prevention assembly that is equal to that on the main line.

(2) No backflow preventer shall be installed in a manner by which it is subject to freezing. All above ground backflow preventers shall be installed in an ASSE standard 1060 "freeze retardant" enclosure with a minimum R value of 8.0. All above ground backflow preventers shall be installed with permanent piped electrical service to a thermostatically controlled heater or heat tape. Backflow for lawn irrigation systems may be installed with unions and an upstream shut off valve not subject to freezing. All underground piping must be installed a minimum of 12 inches below grade and must meet the requirements of underground water service piping.

Reduced pressure zone assembly (RPZ).

- a. Above ground outdoor installation is preferred and encouraged.
- b. Below ground and indoor installations are strongly discouraged, and shall only be allowed in special cases as approved by the Backflow Administrator. The vault shall have positive drainage with adequate gravity drainage to atmosphere to accommodate for the maximum discharge of the relief valve(s) on the assembly(s) and must be in a location where no portion of assembly can become submerged at any time or under any circumstances or conditions.
- c. Twelve inches minimum and a maximum of 36 inches clearance from vault floor and a minimum of 24 inches clearance from a wall or another fixture for the purpose of testing and repair.
- d. No vertical installation unless USC FCCHR approvals allow otherwise.
- e. Installation in accordance with manufacturer's recommendations.
- f. Located where it is readily accessible for regular testing, maintenance, and inspection.
- g. Must be in a location where no portion of assembly can become submerged at any time under any circumstances or conditions

(3) Double check valve assembly (DCVA).

- a. Above ground outdoor installation is preferred and encouraged.

- b. Below ground installation is strongly discouraged, and shall only be allowed in special cases as approved by the Backflow Administrator. The vault shall have positive drainage with adequate gravity drainage to atmosphere and must be in a location where no portion of assembly can become submerged at any time or under any circumstances or conditions.
- c. Twelve inches minimum and a maximum of 36 inches clearance from vault floor and a minimum of 24 inches clearance from a wall or another fixture for the purpose of testing and repair.
- d. Vertical or horizontal installation acceptable with USC FCCHR approvals.
- e. Installation in accordance with manufacturer's recommendations.
- f. Located where it is readily accessible for regular testing, maintenance, and inspection.

(4) Air gap (AG).

- a. Above ground installation only.
- b. Must be in a location where no portion of assembly can become submerged at any time under any circumstances or conditions

(Ord. passed 6-19-18)

**§ 16-53 DEGREE OF HAZARD.**

A. Determination.

(1) No service shall be completed until the Backflow Administrator has been provided with information or has surveyed the private water system to determine the degree of hazard and make a determination of a backflow prevention assembly to be installed to protect the City of Eden public water supply.

(2) Any water service customer, making any modification to the private water system's use or configuration, which may change the degree of hazard, shall notify in writing the Backflow Administrator before any modification is made. If the Backflow Administrator determines that such modification requires a greater degree of backflow prevention assembly, that assembly must be installed prior to any modification of use or configuration.

(3) If the City of Eden Backflow Administrator or his designee is unable to survey any portion of a private water system to determine the degree of hazard, due to confidential activities, a reduced pressure zone assembly will be required.

B. Degree

(1) Health hazard: Actual or potential threat of contamination that presents an imminent danger to the public health with consequence of serious illness or death.

(2) Non-health hazard: One that presents foreseeable and significant potential for pollution, nuisance, aesthetically objectionable or other undesirable alterations of the City of Eden public drinking water supply.

C. Minimum backflow prevention assembly requirements

(1)	Degree of Hazard:	RPZ or RPDA	DCVA or DCDA	AG
	Health hazard	X		X
	Non-health hazard		X	
	AG = Air gap			
	DCVA = Double check valve assembly;			
	DCDA=Double Check Detector Assembly (Fire protection systems w/o chemicals or pumps)			
	RPZ = Reduced pressure zone assembly			
	RPDA=Reduced Pressure Detector Assembly (Fire protection systems with chemicals or pumps)			

(2) Facilities that require a backflow prevention assembly:

a. Residential dual check valve. If no other backflow prevention assembly is specified a dual check valve assembly must be installed on all private water systems.

b. Non-health hazard.

1. Connection to tanks, lines, and vessels that handle non-toxic substances.
2. Fire sprinkler systems without pumps or chemicals.
3. Lawn irrigation systems without chemical injection or booster pumps.
4. Most commercial establishments.
5. Schools, daycares and colleges.
6. Bakeries, restaurants, etc.
7. Churches.
8. Bottling plants without back pressure.
9. Office buildings.
10. Other facilities as determined by the Backflow Administrator.

## c. Health hazard.

1. Lawn irrigation systems with chemical injection or a booster pump.
2. Wastewater treatment plants.
3. Beauty shop and salons.
4. Connection to tanks, lines, boilers or vessels that handle sewage, lethal substances, toxic or radioactive substances.
5. Connection to an unapproved water system or auxiliary water supply.
6. Buildings with five or more stories above ground.
7. Hospitals and other medical facilities.
8. Morgues, mortuaries and autopsy facilities.
9. Metal plating facilities.
10. Breweries, bottling plants
11. Canneries.
12. Battery manufacturers.
13. Exterminators and lawn care companies.
14. Chemical processing plants.
15. Dairies.
16. Film laboratories.
17. Car wash facilities.
18. Dye works.
19. Laundries.
20. Swimming pools.
21. Waterfront facilities.
22. Concrete/ asphalt plants.
23. Airports.
24. Oil and gas production, storage, or transmission facilities.
25. Sand and gravel plants.
26. Furniture manufacturing plants.
27. Interconnection with other water purveyor's potable water systems
28. Gas/service stations.
29. Other facilities as determined by the Backflow Administrator.

This is not intended to be an exhaustive list. Any other type facilities or services not listed above may also be required to install an approved backflow prevention assembly if determined by the Backflow Administrator. All assemblies and installations shall be subject to inspection and approval by the City of Eden Backflow Administrator or his designee's.

(3) Filling of tanks/tankers or any other container from a City of Eden fire hydrant is strictly prohibited unless it has been equipped with the proper meter and approved backflow prevention assembly. The City of Eden will issue a permit for this tank/tanker or container. Any unauthorized connection to a fire hydrant is considered an illegal cross connection to the City of Eden public water system and will be subject to penalties as set forth in the City of Eden Fee Schedule.

Exemption: All fire apparatuses are exempt from the backflow prevention requirements only if fighting fire or training. If training they are asked to notify the City's Collection and Distribution Division. However if fire apparatus has been used to haul non-potable water, it is to be cleaned and re-certified prior to connecting to a City of Eden fire hydrant.

(4) Imminent hazard: If it has been determined a water service customer's private water system has an imminent hazard: the water service customer must install an approved backflow prevention assembly specified by the City of Eden Backflow Administrator and this article. This assembly must be installed within 24 hours of notification from the Backflow Administrator. If the water service customer fails to install the specified assembly within the allowed time period, water service to the water service customer's private water system will be terminated and the water service customer may be subject to civil penalties. In the event the Backflow Administrator is unable to notify the water service customer within 24 hours of determining an imminent hazard exists, the Backflow Administrator may terminate water service until the specified assembly is installed. These actions may be carried out under the Safe Drinking Water Act.

(Ord. passed 6-19-18)

#### **§ 16-54 NOTICE OF CONTAMINATION OR POLLUTION.**

(1) In the event the water service customer's private water system becomes contaminated or polluted the water service customer shall immediately notify the City of Eden Backflow Administrator or the Collection and Distribution Superintendent.

(2) In the event the water service customer has reason to believe that a backflow incident has occurred between the water service customer's private water system and the public water system the water service customer shall immediately notify the City of Eden Backflow administrator or the Collection and the Distribution Superintendent so that appropriate actions can be taken to isolate and remove the contamination or pollution.

(Ord. passed 6-19-18)

#### **§ 16-55 VIOLATIONS AND CIVIL PENALTIES.**

##### **A. Notification of violation**

(1) A written notice will be presented to any water service customer/person who has been found to be in violation of any part of this article.

(2) This first notice must explain the violation and give the time period within which the violation must be corrected.

(3) A second notice will give 30 additional days to correct all violations as required by this article.

(4) A third notice will be a civil penalty allowing 15 more days to comply before the penalties begin.

(5) In the event a water service customer found to be in violation of this article fails to correct the violation within the specified time or, fails to pay any civil penalties expense assessed under this article, water service will be terminated.

B. Civil and other penalties

(1) Unprotected cross connection involving a private water system, which is of a health hazard: \$1,000.00 per day not to exceed \$10,000.00.

(2) Unprotected cross connection involving a tank/tanker or other container hooked to a fire hydrant—\$1,000.00 per occurrence.

(3) Unprotected cross connection involving a private water system, which is of a non-health hazard—\$500.00 per day not to exceed \$5,000.00.

(4). Any violation of the requirements and prohibitions of this Article including failure to address an unprotected cross connection is hereby declared a public nuisance and shall be corrected or abated as directed by the requirements of this Article. Any person(s) creating a public nuisance or failing to abate such shall be subject to the provisions of City Code, Chapter 6 Article II: *Nuisances*, governing such nuisances, including reimbursing the City of Eden for any costs incurred in removing, abating or remedying said nuisance.

(5) Submitting false records which are required by this article—\$1,000.00.

*Also this will result in removal of the tester from the approved testers list. Notification of the school where the tester was certified and the tester's behavior shall be reported to the North Carolina Division of Water Resources.*

(6) Failure to submit records which are required by this article—\$500.00.

(7) Failure to test or maintain backflow prevention assemblies as required by this article—\$100.00 per day up to and including termination of water service.

(Ord. passed 6-19-18)

### ***DIVISION 3 PRIVATE FIRE HYDRANTS AND SPRINKLER SYSTEMS***

#### **§ 16-61 CONNECTIONS.**

All connections and systems for private fire hydrants or sprinkler systems shall be made according to the requirements of this article.

('89 Code, § 16-61) Penalty, see § 16-72

#### **§ 16-62 SUBMISSION AND APPROVAL OF PLANS.**

(A) Plans for the proposed installation of private fire hydrants and sprinkler systems must be approved by the property owner's insurance carrier.

(B) A copy of the approved plans must be submitted to the city for review by the City Engineer and Fire Chief who shall make recommendations to the City Manager for final approval.

(C) Connections for systems outside the city limits must be approved by the City Council or City Manager prior to compliance with subsections (A) and (B). ('89 Code, § 16-62)

### **§ 16-63 INSTALLATION REQUIREMENTS.**

(A) On all new systems referred to in this division and on all such systems being renovated, the owner shall:

(1) Provide and install at his expense a fire line meter where it is anticipated that water for purposes other than fire water will be used. The make, design and size must be approved, before purchase, by the city;

(2) Provide and install at his expense a detector check or fire line detector meter where it is anticipated that only fire water will be used. The make, design and size shall be approved by the city;

(3) A double check valve system shall be installed between the sprinkler system and the city water supply to prevent backflow. The detector check may be considered one check valve.

(B) If, after installation of the system and a detector check or fire line detector meter, it is determined that other than fire water is being used, the property owner shall be required to provide and install at his expense a fire line meter within 60 days of notification by the city according to subsection (A).

('89 Code, § 16-63) Penalty, see § 16-72

### ***DIVISION 4 ENFORCEMENT***

#### **§ 16-71 ENFORCEMENT.**

It shall be the duty of the Superintendent of the Water Department to enforce all provisions of this chapter, and to make all necessary inspections to determine whether or not the provisions of the chapter are being met.

(Ord. passed 2-16-16)

#### **§ 16-72 PENALTY.**

(A) Each violation of any provision of Divisions 1 through 3 of this Article shall constitute a Class 3 misdemeanor, punishable by a fine of not more than \$500, as provided by G.S. §14-4, as amended. Each calendar day during which a violation continues shall constitute a separate and distinct offense.



(B) The provisions of this article may also be enforced through any equitable or other legal remedy authorized by § 1-16 of the City Code or as otherwise permitted by law.

(C) Violations of this chapter may also be punished by a civil penalty in the amount of \$100 for each violation, which penalty shall be enforced as provided by § 1-16.2 of the City Code. This remedy shall be nonexclusive.

(Ord. passed 2-16-16)

### ***DIVISION 5 CONSERVATION***

#### **§ 16-81 DEFINITION.**

The following term when used in this division, shall have the meaning ascribed to it in this section, except where the context clearly indicates a different meaning:

***WATER SHORTAGE*** shall be deemed to exist when the ordinary demands and requirements of water consumers served by the city cannot be satisfied without depleting the water supply to or below a critical level, the level at which the continued availability of water for human consumption, sanitation, and fire protection is jeopardized. Situations also occur that can interrupt the availability of water supply or its distribution to our customers. This Water Shortage Response Plan has been developed to allow the City of Eden to adapt to these situations and continue to supply water to our customer. These situations can be caused by drought, storms, water line breaks, power failures, or harmful acts of human beings. This plan will set forth protocol for how the City of Eden Water System will respond to these situations.

('89 Code, § 16-81) (Ord. passed 8-19-86; Am Ord. passed 5-18-10)

**§ 16-82 WATER SHORTAGE RESPONSE PLAN (WSRP).**

## Implementation of the WSRP

(A) To avoid further depletion of the city's water supply during a water shortage, The City Manager will authorize the implementation of what level of response is needed based on the criteria set forth in this plan. The current situation will be communicated to the Mayor and City Council.

(B) Whenever the City Manager finds a water shortage exists, he shall proclaim one or more water conservation stages. The City Manager's proclamation shall be based upon a recommendation from the Water Plant Superintendent, the Distribution System Superintendent, or the Environmental Services Director to the City Manager of what response is required to continue meeting the human consumption, sanitation and fire protection needs of our customers. Recommendations of the Water Plant Superintendent or the Distribution System Superintendent shall be based on a review of factors such as current water supply, stream flow, drought conditions, presettling impoundment reservoir level, seasonal effect on water supply, condition of the distribution system, pumping capacity, and average current consumption rates.

(C) In the absence of the City Manager, the Director of Environmental Services Director will be authorized to implement the required response within the plan.

('89 Code, § 16-82) (Ord. passed 8-19-86; Am. Ord. passed 11-19-02; Am. Ord. passed 5-18-10)

*Sections § 16-82 through 16-92 of this ordinance will constitute the City's Water Shortage Response Plan as required under North Carolina Administrative Code 15A NCAC 02E0.607 and General Statute 143-355(l)*

**§ 16-83 NOTIFICATION OF WATER SHORTAGE RESPONSE PLAN IMPLEMENTATION.**

When the WSRP is activated water users and City employees will be notified by the following means, as time will allow:

- 1) Post information to the City's Website
- 2) Code Red – rapid dialing telephone alerts to affected zones
- 3) Department Heads and supervisor will brief their employees
- 4) Press release for the Local Newspaper if time appropriate for publishing
- 5) Public Service Announcements (PSAs) for TV and/or radio as appropriate
- 6) Messages printed on the water bills

(Ord. passed 5-18-10)

**§ 16-84 UNLAWFUL TO VIOLATE MANDATORY RESTRICTION.**

If the City Manager declares one or more stages of water conservation, it shall be unlawful for any person to use or permit the use of water supplied by the city in violation of any mandatory restriction instituted pursuant to that declaration.

('89 Code, § 16-83) (Ord. passed 8-19-86; Am. Ord. passed 11-19-02; Am. Ord. passed 5-18-10)

## **§ 16-85 MEASURES TO BE IMPLEMENTED AT VARIOUS STAGES OF WATER CONSERVATION**

*Water Conservation* will be encouraged at all times. The following water use habits are to be recommended in an ongoing public information campaign to reduce wasting of water:

- 1) Check for leaks in toilets at least once a year by putting a few drops of food coloring in the storage tank. If the color comes through to the toilet bowl without flushing, the toilet needs adjustment or repair.
- 2) Repair leaking faucets whenever they develop.
- 3) Store water for drinking in the refrigerator to avoid trying to run it cool at the tap. The storage also eliminates chlorine taste that some customers find objectionable in drinking water.
- 4) Use shower for bathing or reduce the depth of water used for tub bath. Limit the length of each shower.
- 5) Do not leave faucets running while shaving or rinsing dishes.
- 6) Install water flow restrictive devices in showerheads.
- 7) Install water-saving devices such as plastic bottles or commercial units in toilet tanks, unless you already have a new water-saving type unit.
- 8) Always wash full loads in clothes washers and dishwashers.
- 9) Do not use the toilet for a trash basket; make every flush count.
- 10) Commercial and industrial customers should review their water uses and where feasible install recycle systems. The savings on water and sewer bills will often pay for the installation in a reasonable period.

The following water conservation stages, associated recommendations, and mandatory measures may be instituted by the City Manager when a Water Shortage exists:

***Stage 1 Water Supply Alert Conservation.*** Continue all recommendations of Continuous Water Conservation and increase the level of conservation effort by publicizing the following measures:

- 1) Limit use of clothes washers and dishwashers and when used, operate fully loaded.
- 2) Limit flushing of toilets by multiple usages.
- 3) Limit lawn watering and only then, when grass shows signs of withering. Apply water as slowly as possible to achieve deep penetration.
- 4) Water shrubbery the minimum required, reusing household water when possible.
- 5) Limit car washing to the minimum.
- 6) Limit wash-down of outside impervious areas such as sidewalks, patios, etc.
- 7) Limit hours of operation of water-cooled air conditioners if possible.
- 8) Limit non-essential water use for commercial and industrial activities
- 9) Encourage a goal of 10% reduction in water use by all customers
- 10) Begin 5% Water Conservation Surcharge on Customer Water Rate

**Stage 2 Water Supply Warning Conservation.** Continue all recommendations of Stages I and increase the levels of conservation effort by enforcing the following measures:

- 1) No watering of lawns, shrubbery, flowers or vegetable gardens except after 6:00 p.m. on Saturday and Sunday. Golf courses to water only on even numbered calendar days.
- 2) No water to be introduced into swimming pools except to the extent necessary to maintain operation.
- 3) No washing down of outside areas such as sidewalks, patios or driveways, or other similar purposes.
- 4) Do not introduce water into any decorative fountain, pool or pond.
- 5) No serving of water in a public restaurant except upon request.
- 6) Do not use water for any unnecessary purpose or intentionally waste water.
- 7) Use disposable and biodegradable dishes.
- 8) Commercial and Industrial will reduce water use by 10%.
- 9) Encourage a goal of 30% reduction in water use by all customers
- 10) Begin 15% Water Conservation Surcharge on Customer Water Rate

**Stage 3 Mandatory Conservation.** Continue all less severe water conservation stages and increase the level of conservation effort by enforcing the following measures:

- 1) No lawn sprinkling.
- 2) No watering of any vegetable garden or ornamental shrubs except during the hours of 4:00 p.m. and 8:00 p.m. on Saturday.
- 3) No filling of any swimming pool; no replenishment of any filled pools except to the minimum essential for operation of chemical feed equipment.
- 4) No nonessential use of water for commercial or public use. The use of single-service plates and utensils is encouraged and recommended in restaurants.
- 5) Do not operate water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected.
- 6) Discontinue washing exterior of motor vehicles except where 50% or more of the water is recycled, or where a private well water system is used.
- 7) Commercial and Industrial will reduce water use by 30%.
- 8) Encourage a goal of 50% reduction in water use by all customers
- 9) Begin 25% Water Conservation Surcharge on Customer Water Rate

**Stage 4 Emergency Conservation (Rationing).** Continue all less severe water conservation stages and increase the level of conservation effort by strictly enforcing the following measures:

- 1) It will be unlawful to fail to act in accordance with this section or use water contrary to this section or attempt to evade or avoid such water rationing restrictions.
- 2) Fire protection will be maintained, but where possible, tank trucks shall use raw water.
- 3) Close all swimming pools.

- 4) No washing of any motor vehicles, including commercial washing.
- 5) All industrial uses of water are prohibited.
- 6) All other uses of water will be limited to those necessary to meet minimum health and safety needs of the customers.

('89 Code, § 16-84) (Ord. passed 8-19-86; Am. Ord. passed 11-19-02; Am. Ord. 5-18-10) Penalty, see § 16-86

**§ 16-86 ENFORCEMENT.**

It shall be the duty of the Environmental Services Director to investigate violations of the mandatory restrictions and issue orders consistent with the purpose and intent of this division. All customers shall cease any violation of the mandatory restrictions upon the order of the Environmental Services Director Any customer who violates any provision of this division, or who shall violate or fail to comply with any order made pursuant to this division shall be subject to penalty or a combination of the penalties set forth in § 16-87. The Water Department Personnel, Fire Department Personnel, or Police Officers will be responsible for enforcement of this ordinance as they go about their daily duties about the City.

('89 Code, § 16-85) (Ord. passed 8-19-86; Am. Ord. passed 5-18-10)

**§ 16-87 DISCONTINUANCE OF SERVICE; RIGHT OF APPEAL; OTHER REMEDIES; PENALTY NOT TO EXCUSE VIOLATION.**

(A) When customers are found to be in violation of the MANDATORY RESTRICTIONS, the City’s personnel listed above (§ 16-85) will issue citations and penalties will be assessed as follows:

1 <sup>st</sup> Violation	Warning
2 <sup>nd</sup> Violation	\$100 Fine
3 <sup>rd</sup> Violation	\$250 Fine
4 <sup>th</sup> Violation	\$250 Fine and discontinuation of service

(B) The city may discontinue water service to any structure or parcel when the Environmental Services Director gives written notice of any violation of mandatory restrictions and intent to discontinue service. Water service shall be discontinued within 24 hours unless the violator shall cease voluntarily. When service is discontinued pursuant to the provisions of this section, service shall not be reinstated unless and until the Environmental Services Director determines that, the risk to the city water supply has been alleviated.

(C) The customers shall have a right of appeal to the City Manager, upon serving written notice of appeal on the City Manager within five days after receiving notice of any violation and intent to discontinue service. The appellant will be notified by the City Manager of the time and place for the hearing of the appeal. The City Manager shall act on the appeal as expeditiously as possible and shall notify the appellant in writing no later than two days after the final decision.

(D) The provisions of this article may be enforced by an appropriate remedy, including a mandatory or prohibitory injunction, issuing from a court of competent jurisdiction.

(E) The imposition of one or more penalties for any violation shall not excuse any violation or permit it to continue.

('89 Code, § 16-86) (Ord. passed 8-19-86; Am. Ord. passed 5-18-10)

**§ 16-88 GUIDELINE TRIGGERS TO INITIATE CONSERVATION STAGES IN DROUGHT SITUATIONS**

<b>System Supply Type</b>	<b>Water Supply Alert Conservation Level 1</b> US Drought Monitor indicates abnormally dry in our area	<b>Water Supply Warning Conservation Level 2</b> US Drought Monitor indicates severe drought in our area	<b>Mandatory Conservation Level 3</b> Us Drought Monitor indicates extreme drought in our area	<b>Emergency Conservation Level 4</b> Us Drought Monitor indicates exceptional drought in our area
<p><b>Run-of-River</b> (Measure stream flow daily and inventory watershed for upstream water users during a water shortage situation.)</p>	<ul style="list-style-type: none"> <li>• Steam Flow less than 180 cubic feet per second</li> <li>• Water demand does not exceed gravity flow at the intake</li> <li>• Gravity flow into the intake screens is adequate to meet pumping demand</li> <li>• 6 Days of normal demand remaining in Presettling Impoundment</li> <li>• Average daily use &gt; 11 MGD for 5 consecutive days</li> <li>• Withdrawing 10% of flow past the intake</li> <li>• Presettling Impoundment is 5 feet down from full pond. 61 MGD supply remaining*</li> </ul>	<ul style="list-style-type: none"> <li>• Steam Flow less than 100 cubic feet per second</li> <li>• Water demand exceeds gravity flow at the intake.</li> <li>• Supplemental pumps are put into operation with some gravity flow in intake</li> <li>• 6 Days of normal supply remaining in Presettling Impoundment</li> <li>• Average daily use &gt; 10 MGD for 5 consecutive days</li> <li>• Withdrawing 17 % of flow past the intake</li> <li>• Presettling Impoundment is 9 feet down from full pond. 48 MGD supply remaining *</li> </ul>	<ul style="list-style-type: none"> <li>• Steam Flow less than 75 cubic feet per second</li> <li>• Water demand exceeds gravity flow at the intake. Intake screens more than 12 inches out of water</li> <li>• Supplemental pumps are in operation with limited gravity flow in intake</li> <li>• &lt; 6 Days of normal supply remaining in Presettling Impoundment</li> <li>• Average daily use &gt; 7 MGD for 5 consecutive days</li> <li>• Withdrawing 20 % of flow past the intake</li> <li>• Presettling Impoundment is 13 feet down from full pond. 36 MGD supply remaining *</li> </ul>	<ul style="list-style-type: none"> <li>• Steam Flow less than 40 cubic feet per second</li> <li>• Water demand exceeds gravity flow at the intake. Intake more than 24 inches out of water.</li> <li>• Only supplemental pumping will get water into wetwells</li> <li>• &lt; 6 Days of normal supply remaining in Presettling Impoundment</li> <li>• Average daily use &gt; 2 MGD for 5 consecutive days</li> <li>• Withdrawing 5 % of flow past the intake</li> <li>• Presettling Impoundment is 17 feet down from full pond. 25 MGD supply remaining *</li> </ul>

\* Presettling Impoundment volumes based on September 2003 Dewberry Davis Study

Triggers in the table above are to be used as guidelines and actual conditions may dictate some variations from the guidelines listed above. Any one or more of the trigger guidelines may be sufficient to implement conservation stages if immediate situation threatens public health, public safety, or has potentially severe economical impacts.

Triggers for conditions such as operational difficulties at the water plant, contamination, water line breaks, and power failures may lead to Emergency Level 3 by the instant severity of the situation creating nearly instantaneous water shortage.

(Ord. passed 5-18-10)

#### **§ 16-89 RETURN TO NORMAL WATER SUPPLY CONDITIONS**

When the Water Shortage conditions have abated and the water supply situation is returning to normal, water conservation measures employed during the Water Supply Alert Conservation, Water Supply Warning Conservation, Mandatory Conservation and Emergency Conservation can be decreased in the reverse order of implementation. Permanent measures directed toward long-term monitoring and conservation should be implemented or continued.

(Ord. passed 5-18-10)

#### **§ 16-90 VARIANCE FROM WATER CONSERVATION STAGES**

Applications to apply for a variance from Various Water Conservation Stages are available from the Environmental Services Director Office. Completed application will be submitted to the Environmental Services Director's office. Applications will be reviewed and decisions will be made by a committee composed of the City Manager, the Environmental Services Director, and the Water Plant Superintendent. Decisions will be final and will be granted on the following criteria:

- 1) Impact on the City's Water demand
- 2) Essential use of drinking water
- 3) How long would a variance be needed
- 4) Does an alternative water source exist
- 5) Social and economical importance
- 6) Prevention of structural damage

(Ord. passed 5-18-10)

#### **§ 16-91 REVIEW OF THE EFFECTIVENESS OF WATER CONSERVATION STAGES**

The effectiveness of conservation stages will be evaluated in a timetable appropriate to the reason for invoking the conservation stages. For example a large water main break would be evaluated hours as to how fast elevated storage is being depleted. In a drought situation, the water source availability would be evaluated daily versus the service water demand, to see if the conservation stages are keeping the service water demand less than source availability.

(Ord. passed 5-18-10)

**§ 16-92 ADOPTION OF THE WATER SHORTAGE RESPONSE PLAN**

When this draft copy Water Shortage Response Plan is approved by the State Division of Water Resources, it will be submitted to City Attorney for review. Once the City Attorney has completed a review and approved the WSRP, it will be submitted City Council for consideration at the next regular meeting and scheduling of a public hearing at the following month's regular council meeting. A copy of this Water Shortage Response Plan and future revisions will be posted on the City's Website for public inspection when it is submitted to the City Council for consideration and approval.

(Ord. passed 5-18-10)

**§ 16-93 REVIEW AND UPDATING OF WATER SHORTAGE RESPONSE PLAN**

The Water Shortage Response Plan will be reviewed annually or more often as necessary when conditions change requiring modification to the plan. Updates and changes will follow the procedure set forth in § 16-91 of this WSRP.

(Ord. passed 5-18-10)



## ARTICLE III: WASTEWATER SYSTEM

### Section

#### *Division 1 Generally*

- 16-101 Supervision; appointment of supervisor
- 16-102 Connections required
- 16-103 Same - permit required
- 16-104 Same - made by licensed plumbers
- 16-105 Same - separate for each dwelling or building
- 16-106 Same - maintenance, repair, cleaning
- 16-107 Construction of building drains and sewers
- 16-108 Damaging, obstructing system prohibited
- 16-109 Private wastewater disposal

#### *Division 2 Use Regulations*

##### *Subdivision A General Provisions*

- 16-121 Purpose and policy
- 16-122 Definitions and abbreviations

##### *Subdivision B General Sewer Use Requirements*

- 16-126 Prohibited discharge standards
- 16-127 National Categorical Pretreatment Standards
- 16-128 Industrial waste survey and local limits
- 16-129 State requirements
- 16-130 Right of revision
- 16-131 Dilution
- 16-132 Pretreatment of wastewater
- 16-133 Accidental discharge/slug control plans
- 16-134 Hauled wastewater
- 16-135 Fats, oils and grease control

##### *Subdivision C Fees*

- 16-140 Purpose
- 16-141 User charges
- 16-142 Surcharges
- 16-143 Pretreatment program administration charges

## Wastewater System

### *Subdivision D Wastewater Discharge Permit Application and Issuance*

- 16-149 Wastewater dischargers
- 16-150 Wastewater permits

### *Subdivision E Reporting Requirements*

- 16-156 Baseline monitoring reports
- 16-157 Compliance schedule progress reports
- 16-158 Reports on compliance with categorical pretreatment standards deadline
- 16-159 Periodic compliance reports
- 16-160 Reports of changed conditions
- 16-161 Reports of potential problems
- 16-162 Reports from unpermitted users
- 16-163 Notice of violation/repeat sampling and reporting
- 16-164 Notification of the discharge of hazardous waste
- 16-165 Analytical requirements
- 16-166 Grab and Composite Sample collection
- 16-167 Timing
- 16-168 Record keeping

### *Subdivision F Compliance Monitoring*

- 16-174 Monitoring facilities
- 16-175 Inspection and sampling
- 16-176 Search warrants

### *Subdivision G Confidential Information*

- 16-181 Confidential information

### *Subdivision H Enforcement*

- 16-185 Administrative remedies
- 16-186 Civil penalties
- 16-187 Other available remedies
- 16-188 Remedies nonexclusive

### *Subdivision I Annual Publication of Significant Noncompliance*

- 16-193 Annual publication of significant noncompliance

### *Subdivision J Affirmative Defenses to Discharge Violations*

- 16-197 Upset
- 16-198 Prohibited discharge standards defense
- 16-199 Bypass

***DIVISION 1 GENERALLY*****§ 16-101 SUPERVISION; APPOINTMENT OF SUPERVISOR.**

(A) The wastewater system of the City shall be under the general control and supervision of the City Council and shall be regulated and operated as it shall from time to time direct.

(B) The City Manager shall appoint a qualified person to supervise the operation of the system, and such person appointed may assign the duties of supervising the system to an employee of the City in addition to his other duties.

('89 Code, § 16-101) (Am. Ord. passed 11-20-12)

**§ 16-102 CONNECTIONS REQUIRED.**

(A) Every person owning a dwelling, building or other structure which is used for human habitation or occupancy within the City situated on a lot or parcel of land which abuts or adjoins a street or other public way along which is located a sanitary sewer, shall connect such dwelling, building or structure to the wastewater system at the owner's expense within 180 days after date of receiving notice to do so; provided, however, that a connection shall not be required to the system unless the lot or parcel of land on which the dwelling, building or other structure is situated is accessible within 200 feet. No person shall be required to cross private property of any other person to make such connection. Where connections are required, all toilets, sinks, and other plumbing fixtures shall be installed, arranged or rearranged to drain into the sanitary sewer.

(B) When public sewer mains become available to property as described in subsection (A), the property owner shall be made aware that connection to the public sewer is required and that such connection shall be made within 180 calendar days from the date of such notification. Nonuse of the public sewer mains shall only be as approved by the City Council on a case-by-case basis when making sewer available to a property would be impractical or cost prohibitive to the City.

With exception to subsection (A) and (B), a property owner, who is using a septic tank system in good working condition, in lieu of connection, may elect to pay a periodic availability charge in the amount of the minimum periodic service charge for properties that are connected. The aforesaid exception shall cease being available at such point in time as the Rockingham County Health Department deems that the septic tank system has failed. At such time, the property owner shall follow the procedure set forth in subsection (A) and (B).

(C) Privies, cesspools and septic tanks are prohibited within the corporate limits of the City except where public sewer service is not available as described in subsection (A). Privies, cesspools and septic tanks shall be installed as provided for by ordinance and as required by the Rockingham County Health Department.

(D) In those circumstances where public sewer service is not available and septic tanks are used, as permitted and described in subsection (A) above, then the City will refund to the property owner reasonable fees for pumping such tanks on an annual basis. This will only continue until such time as the public sewer is available. Refunds for pumping such tanks are not available for property owners electing to retain septic tank systems under subsection (C).

('89 Code, § 16-102) (Ord. passed 10-15-85; Am. Ord. passed 1-21-03; Am. Ord. passed 11-20-12; Am. Ord. passed 12-20-16) Penalty, see § 1-16 *et seq.*

#### **§ 16-103 SAME - PERMIT REQUIRED.**

No person shall make any connections to the wastewater system unless and until a permit has been issued by the City. Permits shall be issued for connections only after the Chief Codes Inspector or other authorized official has determined the type of connection required, the type of waste to be placed in the system and has approved the plumbing system to be installed within the dwelling, building or structure. All sewer connections must comply with the North Carolina State Building Code, Volume II, Plumbing.

('89 Code, § 16-103) (Ord. passed 10-15-85; Am. Ord. passed 11-20-12) Penalty, see § 1-16 *et seq.*

#### **§ 16-104 SAME - MADE BY LICENSED PLUMBERS.**

All connections to the wastewater system shall be made by authorized employees of the City. All connections shall be made by plumbers licensed to perform plumbing work in the State and by the City. Any sewer connections made by a licensed plumber shall be inspected by the City after such work has been completed and prior to the time such connection is covered. (Am. Ord. passed 11-20-12) ('89 Code, § 16-104)

#### **§ 16-105 SAME - SEPARATE FOR EACH DWELLING OR BUILDING.**

Each separate dwelling, structure or other building shall have a separate connection to the wastewater system, provided that apartments or other multiuse or occupancy buildings may have one combined connection.

('89 Code, § 16-105) Penalty, see § 1-16 *et seq.*

#### **§ 16-106 SAME - MAINTENANCE, REPAIR, CLEANING.**

(A) Whenever the sewer service line to any building or premises becomes clogged, broken, out of order, the City shall determine if the break or obstruction is within the City's right-of-way. If the break or obstruction is within the City's right-of-way, the City shall correct the defect or repair or replace the sewer service line to the edge of the right-of-way. In the event there is no sewer clean out on the

service line, the property owner shall immediately cause a clean out to be installed in the service line and unless the clean out is installed, the property owner shall be solely responsible for locating any future breaks or obstructions in the service line. If the problem lies outside of the City's right-of-way, it shall be the owner's responsibility to correct the defect or repair or replace the sewer service line.

(B) Employees of the City shall not make repairs on private property or place sewer solvent in commodes, vents, etc. If needed, sewer solvent may be put into the line at the point at which the cleanout is being installed. City employees shall not give sewer solvent to any person for use inside residences or other structures.

('89 Code, § 16-106) (Am. Ord. passed 6-19-01; Am. Ord. passed 11-20-01; Am. Ord. passed 11-20-12)

**§ 16-107 CONSTRUCTION OF BUILDING DRAINS AND SEWERS.**

(A) The building drain and building sewer as defined in the State plumbing code shall be constructed only of cast-iron pipe. The grade of pipe, fittings and size shall meet all requirements of the plumbing code. The system shall be installed according to the plumbing code, and all work shall be performed by a licensed plumber.

(B) Each and every building sewer, as defined in the State plumbing code, installed or replaced, wholly or in part, shall have installed a cleanout facility at the end of the lateral installed by the City. Such cleanout shall be a part of the building sewer and shall extend to the finished grade to be readily accessible.

(Am. Ord. passed 11-20-12) ('89 Code, § 16-107)

**§ 16-108 DAMAGING, OBSTRUCTING SYSTEM PROHIBITED.**

(A) It shall be unlawful for any person, firm or corporation to damage, tamper with or in any manner obstruct the normal functions or operations of the water distribution system, the wastewater collection system, the storm drainage system, the raw water treatment plants, or the wastewater treatment plants of the City. As used in this section, *UTILITY* shall include all of the foregoing systems and plants and all appurtenances, appliances and facilities including, but not limited to, manholes and pump stations used in connection with the operation of said systems and plants.

(B) Furthermore, it shall be unlawful for any person, firm, or corporation to alter or significantly change the ground elevations over any City-owned water, sanitary sewer or storm drain line, manholes or associated appurtenances, without prior written approval from the Engineering Department. The property owner or the duly authorized representative of the property owner, on or under whose property such utility lines, manholes, appurtenances or facilities lie, must submit a grading site plan for the proposed work or changes to the Engineering Department for its approval before any work can begin.

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(C) The grading plan required by this section shall include, but is not limited to, a grading site plan showing existing and proposed grades, and engineering data tables from a reliable source (pipe manufacturers catalog data or ASTM standards, etc.) that provide information on the maximum and minimum allowable depth or height of cover above the top of pipe for the type of pipe in question, together with certified calculations under the seal of a professional engineer licensed in the State. The certified calculations shall specify the maximum allowable cut or fill of earthen material over the existing pipe, without jeopardizing the structural integrity of the utility.

(D) If alterations or changes are proposed around manhole structures, the manhole structure shall be raised or lowered to the required elevation as determined by the Engineering Department.

(E) In no case shall the maximum depth or height of cover above the top of pipe exceed 25 feet, nor shall the minimum depth or height of cover above the top of pipe be less than three feet.

(F) All costs associated with modifying the existing underground utility shall be borne by the property owner.

(G) If the City does not have a fully executed, recorded easement for the existing utility in question, the property owner shall grant an easement to the City. After full execution and recording of the easement, the City will raise or lower any existing manholes in question to a maximum change in elevation of eight feet, with this cost being borne by the City. If the property owner desires and has approval by the City to raise or lower any manholes more than eight feet, all costs associated with this work shall be borne by the property owner.

('89 Code, § 16-108) (Ord. passed 10-15-85; Am. Ord. passed 5-15-01; Am. Ord. passed 11-20-12) Penalty, see § 1-16 *et seq.*

### § 16-109 PRIVATE WASTEWATER DISPOSAL.

(A) Where a public sewer main is not available, a building sewer shall be connected to a private wastewater disposal system complying with all applicable State and local regulations concerning use of such systems. The City, in conjunction with the County Health Department shall have the authority to approve or reject such plans and usage of private wastewater facilities presently located within or proposed for location within the corporate limits of the City. The minimum lot area that shall be approved for a private wastewater disposal system shall be regulated by the State law and the County Health Department. The application for such permit shall be made on a form furnished by the County Health Department which the applicant shall supplement by any plans, specifications and other information as are deemed necessary. Approval for private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the County Health Department. The local sanitarian shall be allowed to inspect the work at any stage of construction. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations of the Department of Public Health and the Division of Environmental Management of the State.

(B) No septic tank or cesspool shall be permitted to discharge to any drain, ditch, stream, natural outlet, or well penetrating water-bearing formations. The property owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the local government.

(C) At such times as a public sewer becomes available to the property served by the private wastewater disposal system, a direct connection shall be made to the public sewer within 180 days. Under unusual or special circumstances the City Council may waive this requirement. Applications for such a waiver must be submitted to the City Manager. The City Manager will study the application, make appropriate comments and have it sent to the City Council for approval or disapproval. ('89 Code, § 16-109) (Ord. passed 10-15-85; Am. Ord. passed 11-20-12) Penalty, see § 1-16 *et seq.*

***DIVISION 2 USE REGULATIONS***

***SUBDIVISION A GENERAL PROVISIONS***

**§ 16-121 PURPOSE AND POLICY.**

(A) This division sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Eden, hereafter referred to as the City, and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act, (33 USC §1251 *et seq.*) and the General Pretreatment Regulations (40 CFR 403).

(B) The objectives of this division are:

(1) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system;

(3) To promote reuse and recycling of industrial wastewater and sludges from the municipal system;

(4) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;

(5) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and

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(6) To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the municipal wastewater system is subject.

(C) This division provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(D) This division shall apply to all users of the municipal wastewater system as authorized by G.S. § 160A-312 and/or G.S. § 153A-275. The City shall designate an administrator of the Publicly Owned Treatment Works or POTW and pretreatment program hereafter referred to as the POTW Superintendent. Except as otherwise provided herein, the POTW Superintendent shall administer, implement, and enforce the provisions of this division. Any powers granted to or imposed

upon the POTW Director may be delegated by the POTW Director to other City personnel. By discharging wastewater into the municipal wastewater system, industrial users located outside the City limits agree to comply with the terms and conditions established in this division, as well as any permits, enforcement actions, or orders issued hereunder.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

### § 16-122 DEFINITIONS AND ABBREVIATIONS.

(A) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this division, shall have the meanings hereinafter designated:

1. **ACT** or **THE ACT**. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being 33 USC 1251 *et seq.*
2. **APPROVAL AUTHORITY**. The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.
3. **AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER**.

(a) If the industrial user is a corporation, authorized representative shall mean:

- (i) The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or



- (ii) The manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (b) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
- (c) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (d) The individuals described in subsections (a) through (c) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
- (e) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to POTW Director prior to or together with any reports to be signed by an authorized representative.
4. **BIOCHEMICAL OXYGEN DEMAND (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° C, usually expressed as a concentration (e.g. mg/l).
5. **BUILDING SEWER.** A sewer conveying wastewater from the premises of a user to the POTW.
6. **BYPASS.** The intentional diversion of wastestreams from any portion of a user's treatment facility.
7. **CATEGORICAL STANDARDS.** National Categorical Pretreatment Standards or Pretreatment Standard.
8. **CONTROL AUTHORITY.** Refers to the POTW organization if the POTW organization's Pretreatment Program approval has not been withdrawn.
9. **ENVIRONMENTAL PROTECTION AGENCY or EPA.** The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

10. **GRAB SAMPLE.** A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
11. **HOLDING TANK WASTE.** Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
12. **INDIRECT DISCHARGE** or **DISCHARGE.** The discharge or the introduction from any nondomestic source regulated under § 307(b), (c), or (d) of the Act, (33 USC 1317), into the POTW (including holding tank waste discharged into the system).
13. **INDUSTRIAL USER** or **USER.** Any person which is a source of indirect discharge.
14. **INTERFERENCE.** The inhibition, or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the Control Authority's (and/or POTW's, if different from the Control Authority) NPDES, collection system, or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with § 405 of the Act, (33 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act, being 42 USC 6901 *et seq.*, the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
15. **MEDICAL WASTE.** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
16. **NATIONAL CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD.** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with §§ 307(b) and (c) of the Act (33 USC 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subpart N, Parts 405 through 471.
17. **NATIONAL PROHIBITIVE DISCHARGE STANDARD OR PROHIBITIVE DISCHARGE STANDARD.** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 16-126 of this chapter and are developed under the authority of 307(b) (33 USC 1317(b)) of the Act and 40 CFR 403.5.
18. **NEW SOURCE.** As defined in 40 CFR 403.3(m), including any subsequent amendments and additions.
19. **NONCONTACT COOLING WATER.** Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

20. **NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM, OR NPDES, PERMIT.** A permit issued pursuant to section 402 of the Act (33 USC 1342), or pursuant to G.S. § 143-215.1 by the State under delegation from EPA.
21. **NON-DISCHARGE PERMIT.** A permit issued by the State pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.
22. **PASS THROUGH.** A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the Control Authority's (and/or POTW's, if different from the Control Authority) NPDES or Non-discharge Permit, or a downstream water quality standard even if not included in the permit.
23. **PERSON.** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.
24. **pH.** A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
25. **POLLUTANT.** Any "waste" as defined in G.S. § 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (for example, pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).
26. **POTW DIRECTOR.** The chief administrative officer of the Control Authority or his/her delegate.
27. **POTW TREATMENT PLANT.** That portion of the POTW designed to provide treatment to wastewater.
28. **PRETREATMENT.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW collection system and/or treatment plant. The reduction or alteration may be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR Part 403.6(d).
29. **PRETREATMENT PROGRAM.** The program for the control of pollutants introduced into the POTW from nondomestic sources which was developed by the City in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. § 143-215.3(a)(14) in accordance with 40 CFR 403.11.

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30. **PRETREATMENT REQUIREMENTS.** Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
31. **PRETREATMENT STANDARD.** Any prohibited discharge standard, categorical standard, or local limit which applies to an industrial user.
32. **PUBLICLY OWNED TREATMENT WORKS (POTW) or MUNICIPAL WASTEWATER SYSTEM.** A treatment works as defined by § 212 of the Act, (33 USC 1292) which is owned in this instance by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this division "**POTW**" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, or in any other way, users of the City's POTW.
33. **SEVERE PROPERTY DAMAGE.** Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
34. **SIGNIFICANT INDUSTRIAL USER or SIU.** An industrial user that discharges wastewater into a publicly owned treatment works and that:
- (a) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blow-down wastewaters); or
  - (b) contributes process wastewater which makes up five percent or more of the NPDES or Non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS, and Ammonia; or
  - (c) is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471; or
  - (d) is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any Pretreatment Standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options.
35. **SIGNIFICANT NONCOMPLIANCE or SNC.** The status of noncompliance of a Significant Industrial User when one or more of the following criteria are met. Additionally, any Industrial User which meets the criteria in Subparagraph (B)(35), Parts (c), (d), or (h) shall also be SNC.

- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);
  - (b) Technical Review Criteria (TRC) violations, defined here as those in which thirty three (33) percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oils, and grease, 1.2 for all other pollutants (except flow and pH);
  - (c) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
  - (d) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different than the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and Section [8.1(e)] of this SUO to halt or prevent such a discharge;
  - (e) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
  - (f) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and compliance reports within 30 days from the due date.
  - (g) Failure to accurately report noncompliance.
  - (h) Any other violation or group of violations that the Control Authority and/or POTW determine will adversely affect the operation or implementation of the local pretreatment program.
36. **SLUG LOAD or DISCHARGE.** Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in § 16-126 of this chapter.

37. **STANDARD INDUSTRIAL CLASSIFICATION (SIC).** A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1987.
38. **STORM WATER.** Any flow occurring during or following any form of natural precipitation and resulting therefrom.
39. **SUPERINTENDENT.** The person designated by the City to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this division, or his duly authorized representative.
40. **SUSPENDED SOLIDS.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
41. **UPSET.** An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
42. **WASTEWATER.** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
43. **WASTEWATER PERMIT.** As set forth in § 16-150 of this chapter.
44. **WATERS OF THE STATE.** All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

(B) This division is gender neutral and the masculine gender shall include the feminine and vice-versa.

(C) Shall is mandatory; may is permissive or discretionary.

(D) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(E) The following abbreviations when used in this division, shall have the designated meanings:

(1) ADMI - American Dye Manufacturer's Institute

(2) BOD - Biochemical Oxygen Demand

- (3) CFR - Code of Federal Regulations
- (4) COD - Chemical Oxygen Demand
- (5) EPA - Environmental Protection Agency
- (6) gpd - Gallons per day
- (7) l - Liter
- (8) mg - Milligrams
- (9) mg/l - Milligrams per liter
- (10) N.C.A.C. - North Carolina Administrative Code
- (11) G.S. - North Carolina General Statutes
- (12) NPDES - National Pollution Discharge Elimination System
- (13) O & M - Operation and Maintenance
- (14) POTW - Publicly-Owned Treatment Works
- (15) RCRA - Resource Conservation and Recovery Act
- (16) SIC - Standard Industrial Classification
- (17) SWDA - Solid Waste Disposal Act
- (18) TSS - Total Suspended Solids
- (19) TKN - Total Kjeldahl Nitrogen
- 20) USC - United States Code.

(Ord. passed 5-17-94; Am. Ord. passed 11-19-02; Am. Ord. passed 10-20-09; Am. Ord. passed 11-20-12)

*SUBDIVISION B GENERAL SEWER USE REQUIREMENTS***§ 16-126 PROHIBITED DISCHARGE STANDARDS.**

(A) *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, State, or local pretreatment standards or requirements.

(B) *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including but not limited to wastestreams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.

(2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than ½-inch in any dimension.

(3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(4) Any wastewater having a pH less than 5.0 or more than 12.5 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.

(5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.

(6) Any wastewater having a temperature greater than 131°F (55°C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C).

(7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with § 16-134 of this division.

(9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.



(10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under § 405 of the Act (33 USC 1345); the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

(11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.

(12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable State or Federal regulations.

(13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.

(14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 125 mg/l unless authorized by the POTW Director.

(15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.

(16) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.

(17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.

(18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.

(19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.

(20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

(21) Recognizable portions of the human or animal anatomy.

(22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.

(23) At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter.

(C) *Processing and storing wastes.* Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

(D) *Action of the Director.* When the POTW Director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the POTW Director shall:

(1) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with § 16-185 of this division; and

(2) Take appropriate actions in accordance with subdivision (D) for such user to protect the POTW from interference or pass through.  
(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

#### **§ 16-127 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.**

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR 405 through 471 and incorporated herein.

(A) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(C) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(D) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(E) A user may request a removal credit adjustment to a categorical standard in accordance with 40 CFR 403.7.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

**§ 16-128 INDUSTRIAL WASTE SURVEY AND LOCAL LIMITS.**

(A) An industrial waste survey is required prior to a user discharging wastewater containing in excess of the following daily average discharge limits. The limit duration should be defined in § 16-122 Definitions and Abbreviations:

175	mg/l	BOD
200	mg/l	TSS
40	mg/l	TKN
0.003	mg/l	arsenic
0.005	mg/l	cadmium
0.061	mg/l	copper
0.04	mg/l	cyanide
0.05	mg/l	lead
0.0003	mg/l	mercury
0.06	mg/l	nickel
0.005	mg/l	silver
0.05	mg/l	total chromium
0.2	mg/l	zinc

(B) Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The POTW Director may impose mass limits in addition to, or in place of, concentration-based limits.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09)

**§ 16-129 STATE REQUIREMENTS.**

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this division.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

**§ 16-130 RIGHT OF REVISION.**

The City reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives

presented in § 16-121 of this division and specific prohibitions in § 16-126 of this division, as is allowed by 40 CFR 403.4.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

### **§ 16-131 DILUTION.**

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the City or State.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

### **§ 16-132 PRETREATMENT OF WASTEWATER.**

(A) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this division and wastewater permits issued under § 16-150 of this division and shall achieve compliance with all National Categorical Pretreatment Standards, local limits, and the prohibitions set out in § 16-126 of this division within the time limitations as specified by EPA, the State, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be approved by the POTW Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this division. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(B) *Additional pretreatment measures.*

(1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this division.

(2) The POTW Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

### **§ 16-133 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.**

(A) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section 16-122 of this division. All SIUs must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Director may develop such a plan for any user.

(B) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see Sections 16-159 and 16-160 of this division.

(C) An accidental discharge/slug control plan shall address, at a minimum, the following.

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by § 16-161 of this division; and

(4.) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09; Am. Ord. passed 11-20-12)

**§ 16-134 HAULED WASTEWATER.**

(A) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director, and at such times as are established by the POTW Director. Such waste shall not violate subdivision (B) of this division or any other requirements established by the City. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.

(B) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this division.

(C) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(D) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Ord. passed 5-17-94)

**§ 16-135 FATS, OILS AND GREASE CONTROL.**

(A) *Purpose.* The purpose of this section is to aid in the prevention of sanitary sewer blockages and overflows due to the accumulations of fats, oils and greases in the sanitary sewer from commercial establishments, particularly food preparation and food serving facilities, by requiring all food service facilities to install properly sized and maintained grease traps or interceptors to prevent excess fats, oils, and greases from entering the City's collection system.

(B) *Definitions.* Whenever used in this section, the following words shall be as herein defined, unless a different meaning clearly appears from the context.

1. **FATS, OILS, and GREASES.** Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are measured using analytical test procedures established in 40 C.F.R. Part 136. Fats, oils, and greases are collectively referred to herein as "greases."

2. **FOOD SERVICE FACILITIES.** Those facilities primarily engaged in activities of preparing, serving, or making available for consumption by the public such as restaurant, commercial kitchen, grocery store, caterer, hotel, school, hospital, prison, correctional facility, and care institution. These facilities use one or more of the following preparation activities: frying, baking, grilling, sautéing, rotisserie cooking, broiling, boiling, blanching, roasting, toasting, poaching, infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot non-drinkable food product in or on a receptacle that requires washing.
3. **GREASE INTERCEPTOR MINIMUM DESIGN CAPABILITY.** The design features of a grease interceptor and its ability or volume to effectively intercept and retain greases from grease laden wastewaters discharge to the sanitary sewer.
4. **GREASE TRAP or INTERCEPTOR.** A device for separating and retaining greases and like compounds prior to entry into the sanitary sewer collection and treatment system. These devices also serve to remove and collect settleable solids from food service facilities prior to entry into the sanitary sewer. Grease traps and interceptors are collectively referred to herein as **GREASE INTERCEPTORS**.
5. **NON-COOKING FACILITIES.** Those facilities primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include cold dairy and frozen foodstuffs preparation and serving facilities.
6. **NORTH CAROLINA PLUMBING CODE.** Written guidelines, regulations and ordinances governing the plumbing criteria for type and use of plumbing systems in the State and its political subdivisions.
7. **PUBLICLY OWNED TREATMENT WORKS or POTW.** The collective wastewater treatment system owned and/or operated by the City, including all devices, systems and appurtenances thereto used in the collection, storage, treatment, recycling, distribution and reclamation of municipal sewage, industrial wastes of liquid nature, or other wastewater.
8. **SANITARY SEWER.** A pipe or conduit intended to carry wastewater or waterborne wastes from homes, businesses, and industries to the POTW. A sewer collection system.
9. **USER.** Any person, including those located outside the jurisdictional limits of the City, who contributes, or causes or permit the contribution of, wastewater into the POTW.

(C) *Grease interceptors.*

(1) All food service facilities shall install a minimum 1,000 gallon in ground grease interceptor, unless an alternative pretreatment method is approved by the City in accordance with division (D)(9). All grease interceptors shall be provided and maintained in continuously efficient operation at all times by and at the expense of the user.

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(2) Existing food service facilities without a grease interceptor may be required by the City to install, operate and maintain a new grease interceptor that complies with the requirements of this section. If an overflow or failure of the sanitary sewer collection system to convey sewage can be attributed in part or in whole to an accumulation of grease from an existing facility without a grease interceptor, the City will require the facility to install a grease interceptor within 180 days of written notification. Any additional fixtures that are added to the existing facility and discharges a grease-laden wastestream shall be plumbed into the interceptor and/or a new interceptor may be required.

(3) Exterior in ground grease interceptors shall be serviced and emptied of all waste content as required to maintain minimum design capability, but not less often than every 60 days. In floor and under the counter grease interceptors shall be cleaned not less often than weekly.

(4) In ground interceptors must have access manholes, minimum diameter of 24 inches shall be provided over influent and effluent chambers and sanitary tee. The access manholes shall extend at least to finished grade and shall be designed and maintained to prevent inflow and infiltration. The manhole also shall have readily movable covers to facilitate inspection, grease removal, and wastewater sampling activities.

(5) Minimum design criteria for grease interceptors shall be approved by the City Planning and Inspections Department in accordance with the NC Plumbing Code and provide for a minimum hydraulic retention time of 24 minutes at actual peak flow, between influent and effluent baffles with 20% of the volume of the grease interceptor being allowed for the sludge to settle and accumulate.

(6) Grease interceptors shall be kept free of inorganic materials such as rocks, grit, gravel, sand, eating utensils, cigarettes, shells, towels, rags, and the like, which could settle and reduce the effective volume of the grease interceptor.

(7) There shall be no reintroduction of wastewater back into the grease interceptor.

(8) The use of biological additives as a grease degradation agent is not permissible.

(9) A user may request to the Planning and Inspection department, an alternative to an in ground interceptor because of documented space constraints. The request shall contain the following information:

- (a) Location of the City's sewer main and easement in relation to available exterior space outside of the building.
- (b) Existing plumbing at or in an establishment that uses common plumbing for all services.
- (c) Detailed list of all potential sources of grease at the subject premises.



(10) The POTW Director reserves the right to make determinations of grease interceptor adequacy and need, based on review of all relevant information regarding grease interceptor performance, facility site, and building plan review, and to require repairs to, or modification or replacement of such grease interceptors.

(11) Users are required to ensure that all material removed from grease interceptors is disposed of in a manner that complies with all Federal, State and local statutes, rules, regulations, policies, and ordinances.

(12) The use of hot water flushing to clear the interceptor is prohibited.

(D) *Grease interceptor inspections.*

(1) The City will inspect an establishment's grease interceptor and maintenance records at the City's discretion. If problems are found during any such inspection, the user must take immediate corrective action as directed by the POTW Director.

(2) At inspection, grease cap and solids measurements will be performed. Grease accumulation shall not be greater than six inches at any point within the grease interceptor. Solids accumulation shall not be greater than 20% of the total water depth from the grease interceptor's interior floor to the static working water level, at any point within the grease interceptor.

(E) *Record keeping.* User shall maintain a written record of all grease interceptor maintenance activities for a period of no less than three years. These records shall consist of clean out dates, the name of the owner or manager of the facility, and the name of the firm that performed the clean out. These records must be located on the premises and available for inspection during all business hours.

(F) *Compliance monitoring.* Any user that is subject to sampling by City staff will be assessed the cost for any analytical testing fees.

(Ord. passed 4-19-05; Am. Ord. passed 11-20-12)

*SUBDIVISION C FEES*

**§ 16-140 PURPOSE.**

It is the purpose of this chapter to provide for the recovery of costs from users of the City's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the City's schedule of charges and fees.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

**§ 16-141 USER CHARGES.**

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

(A) The user charge shall reflect at least the cost of debt service, operation and maintenance (including replacement) of the POTW.

(B) Each user shall pay its proportionate cost based on volume of flow.

(C) The City Manager shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the City Council for adjustments in the schedule of charges and fees as necessary.

(D) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

(Ord. passed 5-17-94)

**§ 16-142 SURCHARGES.**

(A) All industrial users of the POTW are subject to industrial waste surcharges on discharges which exceed the following levels:

300 mg/l BOD

300 units ADMI Color Units

(B) The amount of surcharge will be based upon the mass emission rate (in pounds per day) discharged above the levels listed above. The amount charged per pound of excess will be set forth in the schedule of charges and fees.

(1) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:

- (a) Metered water consumption as shown in the records of meter readings maintained by the City; or
- (b) If required by the City, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the City. The metering system shall be installed and maintained at the users expense according to arrangements that may be made with the City.

(c) Where any user procures all or part of his or her water supply from sources other than the City, the user shall install and maintain at his or her own expense a flow measuring device of a type approved by the City.

(2) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the City. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.

(3) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his duly appointed representatives shall be binding as a basis for charges.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

**§ 16-143 PRETREATMENT PROGRAM ADMINISTRATION CHARGES.**

The schedule of charges and fees adopted by the City may include charges and fees for:

(A) Reimbursement of costs of setting up and operating the pretreatment program;

(B) Monitoring, inspections and surveillance procedures;

(C) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;

(D) Permitting;

(E) Other fees as the City may deem necessary to carry out the requirements of the pretreatment program.

(Ord. passed 5-17-94)

*SUBDIVISION D WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE*

**§ 16-149 WASTEWATER DISCHARGERS.**

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the City. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within 90 days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

**§ 16-150 WASTEWATER PERMITS.**

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW Director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW Director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW Director be required to obtain a wastewater discharge permit for nonsignificant industrial users.

(A) *Significant industrial user determination.* All persons proposing to discharge nondomestic wastewater, or proposing to change the volume or characteristics of an existing discharge of nondomestic wastewater shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.

(B) *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the City, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in § 16-150(A) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location, (if different from the address);
- (2) Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;
- (3) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in Subdivision B of this division, any of the priority pollutants (§ 307(a) of the Act (33 USC 1317(a)) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act (33 USC 1314(g)) and contained in 40 CFR 136, as amended and as required in section 16-165 and 16-166 of this division.
- (4) Time and duration of the indirect discharge;
- (5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;

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(7) Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;

(8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State, or Federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards.

(9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine months.

(b) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW Director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the POTW Director.

(10) Each product produced by type, amount, process or processes and rate of production;

(11) Type and amount of raw materials processed (average and maximum per day);

(12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(13) If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAC 2H .0908(a), as outlined in § 16-156 of this division.

(14) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application.

(C) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the control Authority and/or Municipality as defined in section 16-122(1)(a)(b) and 16-122(2)(3)(4) of this division and contain the following certification statement:

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“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

(D) *Application review and evaluation.* The POTW Director will evaluate the data furnished by the user and may require additional information.

- (1) The POTW Director is authorized to accept applications for the City and shall refer all applications to the POTW staff for review and evaluation.
- (2) Within 30 days of receipt the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(E) *Tentative determination and draft permit.*

- (1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
- (2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:
  - (a) Proposed discharge limitations for those pollutants proposed to be limited;
  - (b) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
  - (c) A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
- (3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the City's general permit conditions into a significant industrial user permit.

(F) *Permit supporting documentation.* The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.

- (1) An allocation table (AT) listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.
- (2) The basis, or rationale, for the pretreatment limitations, including the following:
  - (a) documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
  - (b) documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).

(G) *Final action on significant industrial user permit applications.*

- (1) The POTW Director shall take final action on all applications not later than 90 days following receipt of a complete application.
- (2) The POTW Director is authorized to:
  - (a) Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this division and N.C. G.S. § 143-215.1
  - (b) Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
  - (c) Modify any permit upon not less than 60 days notice and pursuant to § 16-150(I) of this division;
  - (d) Revoke any permit pursuant to § 16-185 of this division;
  - (e) Suspend a permit pursuant to § 16-185 of this division;
  - (f) Deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. § 143-215.1.

(H) *Permit modification.*

- (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance

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- (a) Changes in the ownership of the discharge when no other change in the permit is indicated,
  - (b) A single modification of any compliance schedule not in excess of four months,
  - (c) Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
- (2) Within nine months of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a wastewater discharge permit as required by § 16-150(B), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.
- (3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. § 143-215.1(b) for modifications.
- (I) *Permit conditions.*
- (1) The POTW Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this division and G.S. § 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
- (a) A statement of duration (in no case more than five years);
  - (b) A statement of non-transferability;
  - (c) Applicable effluent limits based on categorical standards or local limits or both;
  - (d) Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
  - (e) Requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section 16-122 of this division.
  - (f) Requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section 16-122 of this division, if determined by the POTW Director to be necessary for the User and,



- (g) Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in 16-122 Also see Sections 16-160 and 16-161 of this division.
- (h) A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

(2) In addition, permits may contain, but are not limited to, the following:

- (a) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
- (b) Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
- (c) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
- (d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
- (e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
- (f) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
- (g) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- (h) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation.
- (i) Compliance schedules for meeting pretreatment standards and requirements.
- (j) Requirements for submission of periodic self-monitoring or special notification reports.

## Wastewater System

- (k) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in § 16-168 and affording the POTW Director, or his representatives, access thereto.
- (l) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
- (m) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.
- (n) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.
- (o) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this division, and State and Federal laws, rules, and regulations.

(J) *Permits duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

(K) *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(L) *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with § 16-150 a minimum of 180 days prior to the expiration of the existing permit.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09; Am. Ord. passed 11-20-12)

### *SUBDIVISION E REPORTING REQUIREMENTS*

#### **§ 16-156 BASELINE MONITORING REPORTS.**

(A) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in paragraph (B), below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which contains the information listed in paragraph (B), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users described above shall submit the information set forth below.

- (1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.
- (2) *Environmental permits.* A list of any environmental control permits held by or for the facility.
- (3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- (4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
- (5) *Measurement of pollutants.*
  - (a) The categorical pretreatment standards applicable to each regulated process.
  - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director/Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 16-165 of this division.
  - (c) Sampling must be performed in accordance with procedures set out in § 16-166 of this division and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
- (6) *Certification.* A statement, reviewed by the user's current authorized representative as defined in section 16-122(l) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 16-157 of this division.

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with § 16-150(C) of this division.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

### **§ 16-157 COMPLIANCE SCHEDULE PROGRESS REPORTS.**

The following conditions shall apply to the compliance schedule required by § 16-156(B)(7) of this division:

(A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(B) No increment referred to above shall exceed nine (9) months;

(C) The user shall submit a progress report to the POTW Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(D) In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

### **§ 16-158 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in § 16-156(B)(4) through (6) of this division. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 16-150(C) of this division.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

**§ 16-159 PERIODIC COMPLIANCE REPORTS.**

(A) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in section 16-165 and 16-166 of this division. All periodic compliance reports must be signed and certified in accordance with § 16-150(C) of this division.

(B) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in § 16-165 and 16-166 of this division, the results of this monitoring shall be included in the report.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

**§ 16-160 REPORTS OF CHANGED CONDITIONS.**

Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change. The permittee shall not begin the changes until receiving written approval from the Control Authority and/or Municipality. See section 16-161(D) for other reporting requirements.

(A) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 16-150 of this division.

(B) The POTW Director may issue a wastewater discharge permit under § 16-150 of this division or modify an existing wastewater discharge permit under § 16-150 of this division in response to changed conditions or anticipated changed conditions.

(C) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 10% or greater, and the discharge of any previously unreported pollutants.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

**§ 16-161 REPORTS OF POTENTIAL PROBLEMS.**

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non routine, episodic nature, a noncustomary batch discharge, or a slug load as defined in section 16-122, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

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(B) Within five days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this division.

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (A), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(D) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 16-122.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

### **§ 16-162 REPORTS FROM UNPERMITTED USERS.**

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require.

(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

### **§ 16-163 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.**

(A) If sampling performed by a user indicates a violation, the user must notify the POTW Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within thirty (30) days after becoming aware of the violation. If allowed by the POTW Director, the user is not required to resample:

(1) if the POTW Director monitors at the user's facility at least once a month or

(2) if the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.

(B) If the POTW Director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the [POTW Director] shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:

- (1) the POTW Director monitors at the user's facility at least once a month; or
- (2) the POTW Director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
- (3) the POTW Director requires the user to perform sampling and submit the results to the POTW Director within the 30 day deadline of the POTW becoming aware of the violation.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

#### **§ 16-164 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.**

The City of Eden prohibits the discharge of any hazardous wastes without notification to and approval by the POTW Director.

(A) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State Hazardous Waste Authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days before the discharge commences. The user shall not begin the discharge until receiving written approval from the City of Eden. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under § 16-160 of this division. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 16-156, 16-158, and 16-159 of this division.

(B) Dischargers are exempt from the requirements of paragraph (A), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and State Hazardous Waste Authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

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(D) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this division, a permit issued thereunder, or any applicable Federal or State law.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

### § 16-165 ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

### § 16-166 GRAB AND COMPOSITE SAMPLE COLLECTION.

(A) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(B) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports. Additionally, the POTW Director may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.

(C) Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

### § 16-167 TIMING.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(Ord. passed 5-17-94)



**§ 16-168 RECORD KEEPING.**

Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the POTW Director.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

*SUBDIVISION F COMPLIANCE MONITORING***§ 16-174 MONITORING FACILITIES.**

(A) The City requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(B) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(C) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the City.

(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

**§ 16-175 INSPECTION AND SAMPLING.**

The City will inspect the facilities of any user to ascertain whether the purpose of this division is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of

inspection, sampling, records examination and copying or in the performance of any of their duties. The City, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the POTW's, approval authority's, or EPA's access to the user's premises shall be a violation of this division. Unreasonable delays may constitute denial of access.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

### **§ 16-176 SEARCH WARRANTS.**

If the City, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this division or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City, approval authority, or EPA may seek issuance of a search warrant from the District Court of the county.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

### *SUBDIVISION G CONFIDENTIAL INFORMATION*

### **§ 16-181 CONFIDENTIAL INFORMATION.**

(A) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

(B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, Non-discharge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(C) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

*SUBDIVISION H ENFORCEMENT***§ 16-185 ADMINISTRATIVE REMEDIES.**

(A) *Notification of violation.* Whenever the POTW Director finds that any industrial user has violated or is violating this division, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the City by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(B) *Consent orders.* The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to § 16-185(D), below.

(C) *Show cause hearing.*

(1) The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this division or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

(2) The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

(3) A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under § 16-186 nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under § 16-150(H).

(D) *Administrative orders* When the POTW Director finds that an industrial user has violated or continues to violate this division, permits or orders issued hereunder, or any other pretreatment requirement the POTW Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

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- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

**(E) *Emergency suspensions.***

- (1) The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or nondischarge permit.
- (2) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

**(F) *Termination of permit or permission to discharge.*** The POTW Director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (2) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
- (4) Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable State and Federal regulations.

(G) *Notification.* Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under § 16-185 of this division why the proposed action should not be taken.  
(Ord. passed 5-17-94; Am. Ord. passed 10-20-09)

### § 16-186 CIVIL PENALTIES.

(A) Any user who is found to have failed to comply with any provision of this division, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) per day per violation.

(1) Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:

(a) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or

(b) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.

(B) In determining the amount of civil penalties for a particular violation, the POTW Director shall consider the following:

- (1) The degree and extent of the harm to natural resources, to public health, or to public or private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality, or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by non-compliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply;
- (8) The costs of enforcement to the City.

(C) Appeals of civil penalties assessed in accordance with this section shall be as provided in § 16-150(H).  
(Ord. passed 5-17-94; Am. Ord. passed 3-20-01; Am. Ord. passed 10-20-09; Am. Ord. passed 11-20-12)

**§ 16-187 OTHER AVAILABLE REMEDIES.**

Remedies, in addition to those previously mentioned in this division, are available to the POTW Director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

(A) *Criminal violations.* The District Attorney for the Judicial District 17A may, at the request of the City, prosecute noncompliant users who violate the provisions of G.S. § 143-215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. § 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. § 143-215.6B(I)).]

(B) *Injunctive relief.* Whenever a user is in violation of the provisions of this division or an order or permit issued hereunder, the POTW Director, through the City Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(C) *Water supply severance.* Whenever an industrial user is in violation of the provisions of this division or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the users expense, after it has satisfactorily demonstrated ability to comply.

(D) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this division or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of City Code, Chapter 6 Article II, Nuisances governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

(E) *Sewage charges.* If it is determined that water from a special use water meter is being returned to the City's wastewater collection system, the Director of Finance and Personnel may assess sewage charges on all water billed through the meter from the date of service. Charges beyond current available billing records shall be based on using the billing and consumption information from current available billing records.

(Ord. passed 5-17-94; Am. Ord. passed 3-18-03)

**§ 16-188 REMEDIES NONEXCLUSIVE.**

The remedies provided for in this division are not exclusive. The POTW Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the

POTW Director may take other action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any noncompliant user.

(Ord. passed 5-17-94)

#### *SUBDIVISION I ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE*

### **§ 16-193 ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE.**

At least annually, the POTW Director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAC 2H .0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09)

#### *SUBDIVISION J ADJUDICATORY HEARINGS*

### **§ 16-194 ADJUDICATORY HEARINGS**

(1) *Initial adjudicatory hearing.* An applicant whose permit is denied, granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under § 16-186, or one issued an administrative order under § 16-185 shall have the right to an adjudicatory hearing before the POTW Director or other hearing officer appointed by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within thirty (30) days following receipt of the significant industrial permit, notice of permit denial, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated. The hearing officer shall make a final decision on the contested permit, penalty, or order within forty-five (45) days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail as described in paragraph (3) below. The terms and conditions of a permit under appeal shall be as follows:

(a) *New permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(b) *Renewed permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

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(c) **Terminated Permits.** Upon appeal, including judicial review in the General Courts of Justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(2) *Final appeal hearing.* Any decision of a hearing officer made as a result of an adjudicatory hearing held under paragraph (1) above may be appealed, to the City Council upon filing a written demand within ten (10) days of receipt of notice of the decision. Hearings held under this subdivision shall be conducted in accordance with Local hearing procedures. Failure to make written demand within the time specified herein shall bar further appeal. The City Council shall make a final decision on the appeal within ninety (90) days from receipt of the demand filed under paragraph (1) and shall transmit a written copy of its decision by registered or certified mail as described in paragraph (3) below. The decision is a final decision for the purposes of seeking judicial review.

(3) *Official record.* When a final decision is issued under paragraph (2) above, the City Council shall prepare an official record of the case that includes:

- (a) All notices, motions, and other like pleadings;
- (b) A copy of all documentary evidence introduced;
- (c) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
- (d) A copy of the final decision of City Council.

(4) *Judicial review.* Any person against whom a final order or decision of the City Council is entered, pursuant to the hearing conducted under paragraph (2) above, may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Rockingham County within thirty (30) days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Rockingham County along with a copy to the City. Within thirty (30) days after receipt of the copy of the written request for review by the Court, the City Council shall transmit to the reviewing court the original or a certified copy of the official record.

(Ord. passed 11-20-12)

### *SUBDIVISION K AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS*

#### **§ 16-197 UPSET.**

(A) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (B), below, are met.

(B) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:



- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user has submitted the following information to the POTW Director within 24 hours of becoming aware of the upset, if this information is provided orally, a written submission must be provided within five days:
  - (a) A description of the indirect discharge and cause of noncompliance;
  - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(C) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(D) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(E) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

**§ 16-198 PROHIBITED DISCHARGE STANDARDS DEFENSE.**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 16-126(A) of this division or the specific prohibitions in §§ 16-126(B)(9) through (23) of this division if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(A) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(B) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(Ord. passed 5-17-94)

**§ 16-199 BYPASS.**

(A) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (B) and (C) of this section.

(B) (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(C) (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required under division (B) of this section.

(2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in division (C)(1) of this section.

(Ord. passed 5-17-94)

## **ARTICLE IV: EXTENSION OF SERVICE LINES**

### Section

- 16-211 Purpose of article
- 16-211.1 Extension of services outside the city limits
- 16-212 Prerequisites for permission
- 16-213 Submission of plans and specifications for approval
- 16-214 Prerequisites for connection
- 16-215 Unauthorized connection prohibited; penalty
- 16-216 Cooperative agreements for extension of waterlines; authority to require larger lines
- 16-217 City participation
- 16-218 Creation of water and sewer development account
- 16-219 Receipt of applications
- 16-220 Special conditions precedent to participation
- 16-221 Exceptions

### **§ 16-211 PURPOSE OF ARTICLE.**

It is the intent and purpose of this article to provide an orderly method whereby the water and sewerage systems of the city may be extended by individuals, corporations, subdividers and others and to authorize the provision of water and sewer utility outside the corporate limits of the city under specified circumstances with the approval of the City Council. It is the further intent of this article to ensure that the city's utility infrastructure is efficient and that it operates in the best interests of the city and its residents.

('89 Code, § 16-211) (Am. Ord. passed 9-19-06)

### **§ 16-211.1 EXTENSION OF SERVICES OUTSIDE THE CITY LIMITS.**

(A) Except under certain conditions the city will provide water and sewer utility services only to properties within the corporate limits of the city and will only allow the extension of such lines to serve properties that are within the corporate limits of the city. No water or sewer service shall be provided to any property outside the corporate limits of the city unless the owner of the property petitions for voluntary annexation and the City Council approves that annexation prior to the receipt of water and or sewer services, or the City Council approves an exception to this section.

(B) A property owner may be permitted to connect onto an existing city water and or sewer line when annexation of the site is judged by the City Council to be premature and when the following conditions are met:

(1) All plumbing fixtures and facilities shall be in compliance with the appropriate building codes and or County Health Department regulations.

(2) All owners must execute a written agreement with the city committing to submit a voluntary annexation upon request by the city.

(3) The City Council may approve the provision of water and sewer utility services to serve other jurisdictions, government entities or private utilities.

(4) Any property that is outside the city limits and is already served by city water and or sewer shall be deemed exempt from these provisions. However, no further extensions or increases may be made on affected property without permission from the city.

(C) Prior to a property authorized by the City Council as an exception to this section receiving water and or sewer services all owners must execute an agreement with the city. This document shall be recorded in the Office of the Register of Deeds of Rockingham County. In such agreement and in return for water and or sewer service, the property owners shall declare and agree that as long as the property remains outside the corporate limits the property shall be subject to the following conditions:

(1) The property shall be subject to the city's outside water and or sewer rate schedule.

(2) That the property shall not be further divided or subdivided to create more lots or principal building sites.

(3) That the property owner or their successors and assigns, upon sufficient notice of by the city, shall execute all documents required to accomplish voluntary annexation.

(4) That if following such notice, the owner fails to execute the documents to accomplish voluntary annexation, then the city shall terminate the water and or sewer service to the property.

(5) The owner shall not oppose or support opposition to an annexation initiated by the city that includes any or all of the property to which water and or sewer service was provided by the city.

(Ord. passed 9-19-06)

#### **§ 16-212 PREREQUISITES FOR PERMISSION.**

After approval of the plans for the extension of waterlines and sewer lines by the City Manager, permission for extension may be granted by the City Manager, provided that the person receiving permission shall agree in writing that:

(A) He or she shall obtain and grant to the city, at no cost to the city, all necessary easements or rights-of-way of such widths as the city may require.

(B) He or she shall bear all the expense of constructing the water or sewer mains and of connecting them with the water or sewerage system of the city, and such mains shall be of such size as may be required and shall be laid in accordance with specifications approved by the city. Such person shall provide the city with lien waivers as evidence that such waterlines or sewer lines or both are free and clear of any claims for labor and materials used in the construction of such lines.

(C) The work shall be done under the supervision and control of the city.

(D) The city shall be saved harmless from all loss, cost, damage, liability or expense by reason of any injury to any person or property as a result of the construction of such mains. Such person shall provide the city with evidence of liability insurance insuring the city against claims for personal injury or death with limits of not less than \$100,000 for death or injury to any one person and \$300,000 for such damages as a result of any one occurrence or casualty, and insuring the city against claims for property damage for each occurrence or casualty with limits of not less than \$25,000. Evidence of such insurance shall be provided to the city prior to commencement of construction.

(E) The mains, when complete, shall become the absolute property of the city and subject to its control.

('89 Code, § 16-212) Penalty, see § 16-215

**§ 16-213 SUBMISSION OF PLANS AND SPECIFICATIONS FOR APPROVAL.**

The person desiring to extend waterlines or sanitary sewer lines shall submit plans, profiles and specifications to the City Manager prior to entering into contract or commencing construction. Detailed sketches for waterline construction may be accepted for the extension of waterlines. Sanitary sewer line plans, profiles and specifications shall be made by an engineer.

('89 Code, § 16-213) Penalty, see § 16-215

**§ 16-214 PREREQUISITES FOR CONNECTION.**

Prior to connection of waterlines or sewer line extensions to the city systems, such person shall present to the city:

(A) Recorded easements or rights-of-way for all portions of such lines that are installed on private or public property other than property or easements already belonging to the city;

(B) Properly executed lien waivers for all labor and materials used in the construction of such line;

(C) A properly executed and recorded deed conveying the line to the city free and clear of all encumbrances, together with a certificate of title certifying that the deed vests such title in the city;

(D) Each single-family residential structure shall have a waterline and a sewer line which shall extend from the single-family residence to the water distribution system and the sewerage collection system of the city. No other waterline or sewer line shall be connected to the aforesaid lines between the single-family residential structure and the water distribution and sewerage collection system of the city.

('89 Code, § 16-214) (Ord. passed 10-19-82) Penalty, see § 16-215

#### **§ 16-215 UNAUTHORIZED CONNECTION PROHIBITED; PENALTY.**

(A) It shall be unlawful for any person to make any unauthorized connection of a waterline or a sewer line to the city system.

(B) The violation of any provision of this article shall be a misdemeanor punishable by a fine of \$50 and imprisonment of up to 30 days. The existence of this penalty is exclusive of civil remedies for enforcement as otherwise provided by law.

('89 Code, § 16-215)

#### **§ 16-216 COOPERATIVE AGREEMENTS FOR EXTENSION OF WATERLINES; AUTHORITY TO REQUIRE LARGER LINES.**

(A) The City Council shall retain the right and may enter into a cooperative agreement for the extension of waterlines only six inches and larger within the city limits.

(B) The City Council shall retain the right to require the installation of lines larger than six inches and larger than required for a development. The city shall pay the difference in cost of material only.

('89 Code, § 15-216)

#### **§ 16-217 CITY PARTICIPATION.**

The development, improvement and expansion of property in the city is to be encouraged where such development, expansion and improvement will result in an increase in revenue to the city by virtue of increased real property taxes attributed to such property. When the City Council deems a project presented to be in the public interest the city may participate in the costs associated with the extension of water and sewer facilities to serve such projects within the corporate limits of the city. The participation by the city shall include all portions of the project that would be the property of the city.

(Ord. passed 8-22-94)

**§ 16-218 CREATION OF WATER AND SEWER DEVELOPMENT ACCOUNT.**

Annually the City Council shall allocate funds it deems appropriate to an account within the water and sewer fund for the city's participation in water and sewer development, expansion and improvement.

(Ord. passed 8-22-94)

**§ 16-219 RECEIPT OF APPLICATIONS.**

The city will receive applications for water and sewer extension from property owners or their agents upon the following terms and conditions:

(A) The development or improvements, when completed, must have an actual or proposed value sufficient for the city to realize increased revenue from real property taxes attributable to such development or improvement equal to or greater than the amount determinable under paragraph (B) of this section.

(B) The revenue attributable to the increased real property taxes must be sufficient for the city to recover an amount equal to or exceeding the following:

(1) *Residential.* The city will participate in an amount equal to 50% of the total cost of extension of water and or sewer services for the project. The city shall realize receipt of additional real property taxes in an amount sufficient to cover the city's participation within five consecutive calendar years from the first day of January next succeeding the date of substantial completion of the development on the site. This shall apply only to development projects of ten or more residential units.

(2) *Commercial.* The city will participate in an amount equal to 75% of the total cost of extension of water and or sewer services for the project. The city shall realize receipt of additional real property taxes in an amount sufficient to cover the city's participation within five consecutive calendar years from the first day of January next succeeding the date of substantial completion of the development on the site.

(3) *Industrial.* The city will participate in an amount equal to 100% of the total cost of extension of water and or sewer services for the project. The city shall realize receipt of additional real property taxes in an amount sufficient to cover the city's participation within five consecutive calendar years from the first day of January next succeeding the date of substantial completion of the development on the site.

(C) The application must contain the owner's representation of the estimated increase in the value of the subject property resulting from the development and the estimated date of substantial completion of construction as well as such other information as may be reasonably requested by the city.

(D) The applicant shall pay the difference between the cost of the extension of services and the percentage that will be paid by the city based upon the formulas set forth in § 16-219(B) of this code. The tax rate for the then current fiscal year of the city shall be used in the computation of estimated additional real property tax revenues for the specified period of years. The difference shall be paid by the applicant prior to the extension of the water and sewer lines or the awarding of contracts for such extension.

(E) The method of calculation of the increase in real property taxes on the property shall be as follows:

(1) A calculation shall be made for the real property taxes that would have been ordinarily assessed and collected on the property had it remained unimproved during the number of years specified in § 16-219(B). The value of the unimproved property for this calculation shall be the value of the real property for Rockingham County real property tax purposes for the year the project commences as determined on January 1 of such year. The total amount of taxes that would have been collected had the property remained unimproved shall be calculated by applying the then current tax rate to the value of the unimproved property as of January 1 of the year the project commences and multiplying the resulting amount by the appropriate number of years as specified in § 16-219(B).

(2) A calculation shall be made of the real property taxes that will be assessed and collected on the improved property during the required number of years based upon the applicant's estimate pursuant to § 16-219(C).

(3) Adjustment to the sum paid prior to the commencement of the project or awarding of contracts for such project pursuant to § 16-219(D) shall be made as follows: In the event the added tax value to the property is determined by the County Tax Department to be less than the applicant's estimate, the applicant shall be liable to the city for the difference between the total of real property taxes that would be payable to the city over the specified number of years and the actual taxes that would be collected based on the county's evaluation. The applicant shall pay the difference to the city, if any, within the 60-day period immediately following the date the County Tax Department determines the assessment valuation of such improvements. In the event such payment is not received within the 60-day period, the city shall proceed with all remedies available to it under North Carolina law for collection.

(Ord. passed 8-22-94)



**§ 16-220 SPECIAL CONDITIONS PRECEDENT TO PARTICIPATION.**

If a project for which an application is submitted qualified for city participation under §§ 16-217, 16-218, and 16-219 of the City Code, all firms, persons and corporations owning an interest in the property for which the application is submitted shall, as a condition precedent, enter into a written agreement with the city that includes:

(A) In a form satisfactory to the city a guaranty of payment to the city of all sums that might be due to it from the property owner or owners under this Water and Sewer Extension Policy and in particular under § 16-219(E); and

(B) Provisions for requiring the property owner or owners to pay all damages, costs and expenses, including court costs and reasonable attorneys fees, incurred by the city in enforcing the city's rights under this policy in the event the owner or owners default in payment of any sum of money due the city hereunder or in the event the owner or owners fail to perform or do any matter of things required of the owner or owners to be performed hereunder; and

(C) A developer or property owner who is a party to a reimbursement agreement with the city authorized under this section shall solicit bids in accordance with G.S. § 143-8 when awarding contracts for work that would have required competitive bidding if the contract had been awarded by the city.

(Ord. passed 8-22-94; Am. Ord. passed 3-18-08)

**§ 16-221 EXCEPTIONS.**

The water and sewer extension participation by the city as set out in §§ 16-217 and 16-218 shall not apply to water or sewer line extensions for which the city chooses to make appropriations under the provisions of G.S. § 158-7.1.

(Ord. passed 8-22-94)

## **ARTICLE V: RATES AND CHARGES**

### Section

- 16-231 Charges for connections
- 16-232 Services inside corporate limits
- 16-233 Services outside corporate limits
- 16-234 Surcharge for certain industrial wastes
- 16-235 Reserved
- 16-236 Deposit required for rental property
- 16-237 Discontinuance of service upon failure to pay charges

### **§ 16-231 CHARGES FOR CONNECTIONS.**

(A) Charges for water connections -Such charges shall be set forth in the Schedule of Tax and Service Rates adopted annually by the City Council, and all current charges for connections and services shall be filed with the City Clerk.

(B) Charges for sewer connections -Such charges shall be set forth in the Schedule of Tax and Service Rates adopted annually by the City Council, and all current charges for connections and services shall be filed with the City Clerk.

(C) If laterals are installed by a subdivider during the course of the installation of water and sewer systems in his subdivision, no charge as in subsections (A) and (B) shall be made. Instead, a charge will be made by the city at the time the city shall set a meter at each water tap -Such charges shall be set forth in the Schedule of Tax and Service Rates adopted annually by the City Council, and all current charges for connections and services shall be filed with the City Clerk.

(D) If laterals for water are installed by the city but no meter is set until a later date, the charges established in subsection (A) shall be paid at the time of installation, less the meter setting charge fixed by subsection (C), and the meter charge shall be paid at the time the meter is installed.

(E) All charges fixed in this section shall be increased if the site of the connection is located outside of the city limits -Such charges shall be set forth in the Schedule of Tax and Service Rates adopted annually by the City Council, and all current charges for connections and services shall be filed with the City Clerk.

(F) If either the water or sewer connection has to be extended a greater length than is normal (generally one-half width of the street), the property owner shall pay the additional cost of materials, labor and equipment.

(G) For the installation of water connections larger than two inches and sewer connections larger than six inches, the charge shall be the total cost of materials, equipment and labor.

(H) Prior to the time a permit for a sewer connection is issued, the connection charge shall be paid in full. Connection charges and charges for sanitary sewer service -Such charges shall be set forth in the Schedule of Tax and Service Rates adopted annually by the City Council, and all current charges for connections and services shall be filed with the City Clerk.

('89 Code, § 16-231) (Ord. passed 7-1-85; Am. Ord. passed 9-1-91; Am. Ord. passed 4-19-94; Am. Ord. passed 10-16-2012)

### **§ 16-232 SERVICES INSIDE CORPORATE LIMITS.**

(A) Charges for monthly water service inside the corporate limits are on file in the City Clerk's office. In addition to the minimum charge, there shall be a charge based on the amount of water supplied to a customer through each of that customer's meters.

(B) Except as provided in this article for certain industrial users, monthly wastewater charges for all customers with sewer lines available inside the corporate limits shall be as on file in the City Clerk's office. In addition to such minimum charge, there shall be a charge based on the amount of water supplied to each customer through each meter.

(C) The water and sewer rates for multiple dwelling units shall be as on file in the City Clerk's office.

(1) If there is more than one residential house or trailer on the premises or there is more than one housekeeping unit in a residential house or structure on the premises, or there is a housekeeping unit and a business (home occupation that consumes water) in a residence on the premises, regardless of the size of the meter through which water service is furnished to such residential or business unit on such premises, there shall be charged for each residential or business unit on such premises the fixed charges for a ¾-inch meter service as on file in the City Clerk's office for water and sewer service, respectively. In addition to the fixed charges, there shall be charges for water service and sewer service, based upon the amounts of water supplied, as set forth in subsections (A) and (B).

(2) Multiple-dwelling water rates apply only when the owner of the property agrees to pay the total utility bill.

(3) Individual meters for each unit are required if the family or person renting is to pay the utility bills.

('89 Code, § 16-232)

(D) The water and sewer rates for multiple commercial units shall be as on file in the City Clerk's office.

(1) If there is more than one commercial unit or commercial structure on the premises or there is more than one commercial unit in a commercial structure on the premises, regardless of the size of the meter through which water service is furnished to such commercial unit on such premises, there shall be charged for each commercial unit on such premises the fixed charges for a ¾-inch meter service as on file in the City Clerk's office for water and sewer service, respectively. In addition to the fixed charges, there shall be charges for water service and sewer service, based upon the amounts of water supplied, as set forth in subsections (A) and (B).

(2) Multiple commercial unit rates apply only when the owner of the property agrees to pay the total utility bill.

(3) Individual meters for each unit are required if the person renting is to pay the utility bills. (Ord. Amended 2-18-14)

**§ 16-233 SERVICES OUTSIDE CORPORATE LIMITS.**

Monthly water and sewer charges outside the corporate limits shall be 200% of the rates for inside customers as shown in § 16-232(A) and (B). ('89 Code, § 16-233) (Ord. Amended 5-2-02)

**§ 16-234 SURCHARGE FOR CERTAIN INDUSTRIAL WASTES.**

There shall be a surcharge per pound of biochemical oxygen demand, the amount of which is on file in the City Clerk's office, applied to all industrial waste with a biochemical oxygen demand in excess of 300 parts per million. The strength of waste, biochemical oxygen demand, shall be determined from samples taken on the customer's property at any period of time and of such duration and in such manner as the city may prescribe. ('89 Code, § 16-234)

**§ 16-235 RESERVED.**

**§ 16-236 DEPOSIT REQUIRED FOR RENTAL PROPERTY.**

Any tenant requesting water service for rental property shall be required to make a deposit, the amount of which is on file in the City Clerk's office. Such deposit shall be returned to the customer only after payment of the customer's final bill. ('89 Code, § 16-236) (Ord. passed 6-21-83)

**§ 16-237 DISCONTINUANCE OF SERVICE UPON FAILURE TO PAY CHARGES.**

(A) It is the policy of the city to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(1) That all bills are due and payable on or before the date set forth on the bill; and

(2) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the due date, service will be discontinued for nonpayment; and

(3) That any customer disputing the correctness of his bill shall have a right to a hearing at which time he may be represented in person and by counsel or any other person of his choosing and may present orally or in writing his complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(B) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been billed and unpaid for at least 30 days.

(C) For procedures and rates regarding disconnection late fees and delinquent payment penalties, refer to the City Reconnect Policy (Fin-11).

(Am. Ord. passed 6-18-02; Am. Ord. passed 8-17-10; Am. Ord. passed 11-17-15)